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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

**[Docket No. 151211999-6209-01]**

**RIN 0648-BF62**

**Magnuson-Stevens Fishery Conservation and Management Act Provisions;**

**Fisheries of the Northeastern United States; Northeast Groundfish Fishery;**

**Framework Adjustment 55**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This action proposes approval of, and regulations to implement, Framework Adjustment 55 to the Northeast Multispecies Fishery Management Plan.

This rule would set 2016-2018 catch limits for all 20 groundfish stocks, adjust the groundfish at-sea monitoring program, and adopt several sector measures. This action is necessary to respond to updated scientific information and achieve the goals and objectives of the Fishery Management Plan. The proposed measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

**DATES:** Comments must be received by **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by NOAA-NMFS-2016-0019, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal.
  1. Go to *www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2016-0019*;
  2. Click the “Comment Now!” icon and complete the required fields; and
  3. Enter or attach your comments.
- *Mail:* Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on the Proposed Rule for Groundfish Framework Adjustment 55.”

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of Framework Adjustment 55, including the draft Environmental Assessment, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis prepared by the New England Fishery Management Council in support of this action are available from Thomas A. Nies, Executive Director, New England Fishery

Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the Internet at: <http://www.nefmc.org/management-plans/northeast-multispecies> or <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted to the Regional Administrator at the address above and to the Office of Management and Budget by e-mail at [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Aja Szumylo, Fishery Policy Analyst, phone: 978-281-9195; e-mail: [Aja.Szumylo@noaa.gov](mailto:Aja.Szumylo@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

1. Summary of Proposed Measures
2. Status Determination Criteria
3. 2016 Fishing Year Shared U.S./Canada Quotas
4. Catch Limits for the 2016-2018 Fishing Years
5. Default Catch Limits for the 2019 Fishing Year
6. Groundfish At-Sea Monitoring Program Adjustments
7. Other Framework 55 Measures
8. Sector Measures for the 2016 Fishing Year
9. 2016 Fishing Year Annual Measures Under Regional Administrator Authority
10. Regulatory Corrections under Regional Administrator Authority

**1. Summary of Proposed Measures**

This action would implement the management measures in Framework Adjustment 55 to the Northeast Multispecies Fishery Management Plan (FMP). The Council deemed the proposed regulations consistent with, and necessary to implement, Framework 55, in a February 25, 2016, letter from Council Chairman E.F. “Terry” Stockwell to Regional Administrator John Bullard. Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), we are required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. The Magnuson-Stevens Act permits us to approve, partially approve, or disapprove measures proposed by the Council based only on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. Otherwise, we must defer to the Council’s policy choices. We are seeking comment on the Council’s proposed measures in Framework 55 and whether they are consistent with the Northeast Multispecies FMP and Amendment 16, the Magnuson-Stevens Act and its National Standards, and other applicable law. Through Framework 55, the Council proposes to:

- Set 2016-2018 specifications for all 20 groundfish stocks;
- Set fishing year 2016 shared U.S./Canada quotas for Georges Bank (GB) yellowtail flounder and Eastern GB cod and haddock;
- Modify the industry-funded sector at-sea monitoring program to make the program more cost-effective, while still ensuring that groundfish catch is reliably monitored;
- Create a new sector;

- Modify the sector approval process so that new sectors would not have to be approved through a Council framework or amendment process;
- Adjust gear requirements to improve the enforceability of selective trawl gear;
- Remove the general Gulf of Maine (GOM) cod prohibition for recreational anglers established in Framework 53 (other recreational measures will be implemented in a separate rulemaking); and
- Allow sectors to transfer GB cod quota from the eastern U.S./Canada Area to the western area.

This action also proposes a number of other measures that are not part of Framework 55, but that may be considered and implemented under our authority specified in the FMP. We are proposing these measures in conjunction with the Framework 55 proposed measures for expediency purposes, and because these measures are related to the catch limits proposed as part of Framework 55. The additional measures proposed in this action are listed below.

- *Management measures necessary to implement sector operations plans*—this action proposes one new sector regulatory exemption and annual catch entitlements for 19 sectors for the 2016 fishing year.
- *Management measures for the common pool fishery*—this action proposes fishing year 2015 trip limits for the common pool fishery.
- *Other regulatory corrections*—we propose several administrative revisions to the regulations to clarify their intent, correct references, remove unnecessary text, and make other minor edits. Each proposed correction is described in the

section “10. Regulatory Corrections Under Regional Administrator Authority.”

## **2. Status Determination Criteria**

The Northeast Fisheries Science Center (NEFSC) conducted operational stock assessment updates in 2015 for all 20 groundfish stocks. The final report for the operational assessment updates is available on the NEFSC website:

*<http://www.nefsc.noaa.gov/groundfish/operational-assessments-2015/>* . This action proposes to revise status determination criteria, as necessary, and provide updated numerical estimates of these criteria, in order to incorporate the results of the 2015 stock assessments. Table 1 provides the updated numerical estimates of the status determination criteria, and Table 2 summarizes changes in stock status based on the 2015 assessment updates. Stock status did not change for 15 of the 20 stocks, worsened for 2 stocks (Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder and GB winter flounder), improved for 1 stock (Northern windowpane flounder), and became more uncertain for 2 stocks (GB cod and Atlantic halibut).

As described in more detail below, status determination relative to reference points is no longer possible for GB cod and Atlantic halibut. However, the proposed changes do not affect the rebuilding plans for these stocks. The rebuilding plan for GB cod has an end date of 2026, and the rebuilding plan for halibut has an end date of 2056. Although numerical estimates of status determination criteria are currently not available, to ensure that rebuilding progress is made, catch limits will continue to be set at levels that the Council’s Scientific and Statistical Committee (SSC) determines will prevent overfishing. Additionally, at whatever point the stock assessment for GB cod and halibut

can provide biomass estimates, these estimates will be used to evaluate progress towards the rebuilding targets.

**Table 1. Numerical Estimates of Status Determination Criteria**

<b>Stock</b>	<b>Biomass Target (SSB<sub>MSY</sub> or Proxy (mt))</b>	<b>Maximum Fishing Mortality Threshold (F<sub>MSY</sub> or Proxy)</b>	<b>MSY (mt)</b>
GB Cod	NA	NA	NA
GOM Cod M=0.2 Model	40,187	0.185	6,797
M <sub>ramp</sub> Model	59,045	0.187	10,043
GB Haddock	108,300	0.39	24,900
GOM Haddock	4,623	0.468	1,083
GB Yellowtail Flounder	NA	NA	NA
SNE/MA Yellowtail Flounder	1,959	0.35	541
CC/GOM Yellowtail Flounder	5,259	0.279	1,285
American Plaice	13,107	0.196	2,675
Witch Flounder	9,473	0.279	1,957
GB Winter Flounder	6,700	0.536	2,840
GOM Winter Flounder	NA	0.23 exploitation rate	NA
SNE/MA Winter Flounder	26,928	0.325	7,831
Acadian Redfish	281,112	0.038	10,466
White Hake	32,550	0.188	5,422
Pollock	105,226	0.277	19,678
Northern Windowpane Flounder	1.554 kg/tow	0.45 c/i	700
Southern Windowpane Flounder	0.247 kg/tow	2.027 c/i	500
Ocean Pout	4.94 kg/tow	0.76 c/i	3,754
Atlantic Halibut	NA	NA	NA
Atlantic Wolffish	1,663	0.243	244

SSB = Spawning Stock Biomass; MSY = Maximum Sustainable Yield; F = Fishing Mortality; M = Natural Mortality. *Note.* A brief explanation of the two assessment models for GOM cod is provided in the section “4. Catch Limits for the 2016-2018 Fishing Years.”

**Table 2. Summary of Changes to Stock Status**

Stock	Previous Assessment		2015 Assessment	
	Overfishing?	Overfished?	Overfishing?	Overfished?
GB Cod	Yes	Yes	Yes	Yes
GOM Cod	Yes	Yes	Yes	Yes
GB Haddock	No	No	No	No
GOM Haddock	No	No	No	No
GB Yellowtail Flounder	Unknown	Unknown	Unknown	Unknown
SNE/MA Yellowtail Flounder	No	No	Yes	Yes
CC/GOM Yellowtail Flounder	Yes	Yes	Yes	Yes
American Plaice	No	No	No	No
Witch Flounder	Yes	Yes	Yes	Yes
GB Winter Flounder	No	No	Yes	Yes
GOM Winter Flounder	No	Unknown	No	Unknown
SNE/MA Winter Flounder	No	Yes	No	Yes
Acadian Redfish	No	No	No	No
White Hake	No	No	No	No
Pollock	No	No	No	No
Northern Windowpane Flounder	Yes	Yes	No	Yes
Southern Windowpane Flounder	No	No	No	No
Ocean Pout	No	Yes	No	Yes
Atlantic Halibut	No	Yes	No	Yes
Atlantic Wolffish	No	Yes	No	Yes

*Georges Bank Cod Status Determination Criteria*

The 2015 assessment update for GB cod was an update of the existing 2012 benchmark assessment (available at: <http://www.nefsc.noaa.gov/saw/>). The 2012 benchmark assessment determined that the stock is overfished, and that overfishing is occurring. The peer review panel for the 2015 assessment update concluded that the updated assessment model was not acceptable as a scientific basis for management advice. Several model performance-indicators suggested that the problems in the 2012



benchmark assessment are worse in the 2015 assessment update. There was a strong retrospective pattern in the benchmark assessment that worsened considerably in the assessment update. The retrospective pattern causes the model to overestimate stock biomass and underestimate fishing mortality. Neither assessment could definitively identify the cause of the retrospective pattern, but both cited uncertainty in the estimates of catch and/or natural mortality assumptions used in the assessments. The 2012 benchmark assessment accounted for the retrospective pattern using a retrospective adjustment. However, when the retrospective adjustment was applied in the 2015 assessment update to generate short-term catch projections, the assessment model failed. Based on this, and other indications that the model is no longer a good fit for the available data, the review panel recommended that an alternative approach should be used to provide management advice.

Although the review panel concluded that GB cod catch advice should be based on an alternative approach, it recommended that the 2012 benchmark assessment is the best scientific information for stock status determination. All information available in the 2015 assessment update indicates that stock size has not increased, and that the condition of the stock is still poor. As a result, based on the 2015 assessment update, the stock remains overfished and overfishing is occurring. However, because the assessment model was not accepted during the 2015 assessment, there are no longer numerical estimates of the status determination criteria.

#### *Atlantic Halibut Status Determination Criteria*

This 2015 assessment update for Atlantic halibut is an operational update of the existing 2010 benchmark assessment and a 2012 assessment update (both available at:

<http://www.nefsc.noaa.gov/saw/>). The previous assessments determined that the stock was overfished but that overfishing was not occurring. Though the previous assessments were used to provide catch advice and make status determinations for this stock, the review panel for the 2015 assessment update saw a number of limitations in the model and concluded it was no longer an appropriate basis for management advice. All information available for the 2015 assessment indicates that the stock has not increased, and that the condition of the stock is still poor. However, the results of the assessment model indicated that the stock is near or above its unfished biomass and could support a directed fishery. The review panel noted that the model is very simplistic and uses a number of assumptions (e.g., no immigration or emigration from the stock) that are likely not true for the stock. As a result, the review panel recommended a benchmark assessment to develop a new Atlantic halibut stock assessment model and explore stock boundaries. In the interim, the peer review panel recommended that an alternative approach should be used to provide management advice.

### **3. 2016 Fishing Year U.S./Canada Quotas**

#### *Management of Transboundary Georges Bank Stocks*

Eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly managed with Canada under the United States/Canada Resource Sharing Understanding. Each year, the Transboundary Management Guidance Committee (TMGC), which is a government-industry committee made up of representatives from the U.S. and Canada, recommends a shared quota for each stock based on the most recent stock information and the TMGC's harvest strategy. The TMGC's harvest strategy for setting catch levels is to maintain a low to neutral risk (less than 50 percent) of exceeding the fishing

mortality limit for each stock. The harvest strategy also specifies that when stock conditions are poor, fishing mortality should be further reduced to promote stock rebuilding. The shared quotas are allocated between the U.S. and Canada based on a formula that considers historical catch (10-percent weighting) and the current resource distribution (90-percent weighting).

For GB yellowtail flounder, the SSC also recommends an acceptable biological catch (ABC) for the stock, which is typically used to inform the U.S. TMGC's discussions with Canada for the annual shared quota. Although the stock is jointly managed with Canada, and the TMGC recommends annual shared quotas, the United States may not set catch limits that would exceed the SSC's recommendation. The SSC does not recommend ABCs for eastern GB cod and haddock because they are management units of the total GB cod and haddock stocks. The SSC recommends overall ABCs for the total GB cod and haddock stocks. The shared U.S./Canada quota for eastern GB cod and haddock is accounted for in these overall ABCs, and must be consistent with the SSC's recommendation for the total GB stocks.

#### *2016 U.S./Canada Quotas*

The Transboundary Resources Assessment Committee (TRAC) conducted assessments for the three transboundary stocks in July 2015, and detailed summaries of these assessments can be found at: <http://www.nefsc.noaa.gov/saw/trac/>. The TMGC met in September 2015 to recommend shared quotas for 2016 based on the updated assessments, and the Council adopted the TMGC's recommendations in Framework 55. The proposed 2016 shared U.S./Canada quotas, and each country's allocation, are listed in Table 3.

**Table 3. Proposed 2016 Fishing Year U.S./Canada Quotas (mt, live weight) and Percent of Quota Allocated to Each Country**

Quota	Eastern GB Cod	Eastern GB Haddock	GB Yellowtail Flounder
Total Shared Quota	625	37,000	354
U.S. Quota	138 (22%)	15,170 (41%)	269 (76%)
Canada Quota	487 (78%)	21,830 (59%)	85 (24%)

The Council’s proposed 2016 U.S. quota for eastern GB haddock would be a 15-percent reduction compared to 2015. This reduction is due to a reduction in the amount of the shared quota that is allocated to the U.S. The Council’s proposed U.S. quotas for eastern GB cod and GB yellowtail flounder would be an 11-percent and 9-percent increase, respectively, compared to 2015, which are a result of an increase in the amounts allocated to the U.S. For a more detailed discussion of the TMGC’s 2016 catch advice, see the TMGC’s guidance document at:

*<http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/index.html>.*

Additionally, the proposed 2016 catch limit for GB yellowtail flounder is discussed in more detail in section “4. Catch Limits for the 2016-2018 Fishing Years.”

The regulations implementing the U.S./Canada Resource Sharing Understanding require that any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder be deducted from the U.S. quota in the following fishing year. If catch information for the 2015 fishing year indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quotas for the 2016 fishing year in a future management action, as close to May 1, 2016, as possible. If any fishery that is

allocated a portion of the U.S. quota exceeds its allocation and causes an overage of the overall U.S. quota, the overage reduction would only be applied to that fishery's allocation in the following fishing year. This ensures that catch by one component of the fishery does not negatively affect another component of the fishery.

#### **4. Catch Limits for the 2016-2018 Fishing Years**

##### *Summary of the Proposed Catch Limits*

The catch limits proposed by the Council in this action can be found in Tables 4 through 11. A brief summary of how these catch limits were developed is provided below. More details on the proposed catch limits for each groundfish stock can be found in Appendix III to the Framework 55 Environmental Assessment (see **ADDRESSES** for information on how to get this document).

Through Framework 55, the Council proposes to adopt catch limits for all 20 groundfish stocks for the 2016-2018 fishing years based on the 2015 operational assessment updates. In addition, the Council proposes to update the 2016 catch limits for GB cod and haddock based on the proposed U.S./Canada quotas for the portions of these stocks managed jointly with Canada. Catch limit increases are proposed for 10 stocks; however, for a number of stocks, the catch limits proposed in this action are substantially lower than the catch limits set for the 2015 fishing year (with decreases ranging from 14 to 67 percent). Table 4 details the percent change in the 2016 catch limit compared to the 2015 fishing year.

##### *Overfishing Limits and Acceptable Biological Catches*

The overfishing limit (OFL) serves as the maximum amount of fish that can be caught in a year without resulting in overfishing. The OFL for each stock is calculated using the estimated stock size and  $F_{MSY}$  (i.e., the fishing mortality rate that, if applied over the long

term, would result in maximum sustainable yield). The OFL does not account for scientific uncertainty, so the SSC typically recommends an ABC that is lower than the OFL in order to account for this uncertainty. Usually, the greater the amount of scientific uncertainty, the lower the ABC is set compared to the OFL. For GB cod, GB haddock, and GB yellowtail flounder, the total ABC is then reduced by the amount of the Canadian quota (see Table 3 for the Canadian share of these stocks). Additionally, although GB winter flounder and Atlantic halibut are not jointly managed with Canada, there is some Canadian catch of these stocks. Because the total ABC must account for all sources of fishing mortality, expected Canadian catch of GB winter flounder (87 mt) and Atlantic halibut (34 mt) is deducted from the total ABC. The U.S. ABC is the amount available to the U.S. fishery after accounting for Canadian catch. Additional details about the Council's proposed ABCs for SNE/MA yellowtail flounder and witch flounder are provided below.

**Table 4. Proposed Fishing Years 2016-2018 Overfishing Limits and Acceptable Biological Catches (mt, live weight)**

Stock	2016		Percent change from 2015	2017		2018	
	OFL	U.S. ABC		OFL	U.S. ABC	OFL	U.S. ABC
GB Cod	1,665	762	-62%	1,665	1,249	1,665	1,249
GOM Cod	667	500	30%	667	500	667	500
GB Haddock	160,385	56,068	130%	258,691	48,398	358,077	77,898
GOM Haddock	4,717	3,630	150%	5,873	4,534	6,218	4,815
GB Yellowtail Flounder	Unknown	269	8%	Unknown	354		
SNE/MA Yellowtail Flounder	Unknown	267	-62%	Unknown	267	Unknown	267
CC/GOM Yellowtail Flounder	555	427	-22%	707	427	900	427
American Plaice	1,695	1,297	-16%	1,748	1,336	1,840	1,404
Witch Flounder	521	460	-41%	732	460	954	460
GB Winter Flounder	957	668	-67%	1,056	668	1,459	668
GOM Winter Flounder	1,080	810	59%	1,080	810	1,080	810
SNE/MA Winter Flounder	1,041	780	-53%	1,021	780	1,587	780
Redfish	13,723	10,338	-14%	14,665	11,050	15,260	11,501
White Hake	4,985	3,754	-20%	4,816	3,624	4,733	3,560
Pollock	27,668	21,312	28%	32,004	21,312	34,745	21,312
N. Windowpane Flounder	243	182	21%	243	182	243	182
S. Windowpane Flounder	833	623	14%	833	623	833	623
Ocean Pout	220	165	-30%	220	165	220	165
Atlantic Halibut	210	124	24%	210	124	210	124
Atlantic Wolffish	110	82	17%	110	82	110	82

SNE/MA = Southern New England/Mid-Atlantic; CC = Cape Cod; N = Northern; S = Southern

*Note:* An empty cell indicates no OFL/ABC is adopted for that year. These catch limits will be set in a future action.

*Southern New England/Mid-Atlantic Yellowtail Flounder*

The 2015 operational assessment results suggest a dramatic decline in condition of the SNE/MA yellowtail flounder stock compared to the 2012 benchmark assessment

(available at: <http://www.nefsc.noaa.gov/saw/>). Based on the results of the 2012 assessment,

we declared the stock rebuilt. However, the results of the 2015 operational assessments suggest that the stock is overfished and that overfishing is occurring. There was also a major retrospective pattern in the 2015 operational assessment. In advance of the operational assessments, guidelines were defined for the assessments, one of which required the application of an adjustment to the terminal year biomass in assessments with major retrospective patterns. However, for SNE/MA yellowtail flounder, the assessment peer review panel did not accept the retrospective adjustment because the adjustment led to failures in the short-term catch projections, and because the model had no other apparent issues. The peer review panel ultimately accepted the assessment without the retrospective adjustment.

The SSC recognized that the stock is in poor condition, and that a substantial reduction in catch is necessary. The SSC expressed concern that the assessment for SNE/MA yellowtail flounder did not follow the established guidelines and discussed whether it should not have passed peer review. However, the SSC recognized that the assessment guidelines did not address cases where a retrospective adjustment resulted in model failure. Given this scientific uncertainty, the SSC concluded that the catch projections from the assessment should not be used as the sole basis for catch advice. The SSC ultimately recommended a 3-year constant ABC of 276 mt based on the average of the assessment catch projections and the estimate of 2015 catch, and recommended that the OFL be specified as unknown. In support of this recommendation, it noted that this compromise approach uses the assessment outcome as one bound for ABC advice, but does not adhere too strongly to those outcomes in light of the substantial uncertainties and procedural issues. The Council's proposed ABC is a 62-percent decrease from the 2015 ABC.



### *Witch Flounder*

The 2015 operational assessment update for witch flounder determined that the stock is overfished, and overfishing is occurring. The stock status is unchanged from the 2012 assessment update and 2008 benchmark assessment for this stock. Witch flounder is under a 7-year rebuilding plan that has a target end date of 2017. Based on the 2015 assessment update, the 2014 spawning stock biomass is at only at 22 percent of the biomass target, and the stock is not expected to reach the 2017 rebuilding target even in the absence of fishing mortality. An important source of uncertainty for this assessment is a major retrospective pattern, which causes the model to underestimate fishing mortality and overestimate stock biomass and recruitment; the assessment was unable to identify the cause of the retrospective pattern.

The SSC initially recommended a witch flounder OFL of 513 mt, and an ABC of 394 mt, based on 75 percent of  $F_{MSY}$ . At its December 2015 meeting, the Council recommended the SSC's initial witch flounder OFL and ABC recommendations. The 394-mt ABC represented a 50-percent decrease from the 2015 ABC. Industry members raised strong concern for the poor performance of the assessment model and that the reduction in the witch flounder ABC has the potential to severely limit the groundfish fishery in all areas (Southern New England, Gulf of Maine, and Georges Bank). In response to these concerns, the Council requested that the SSC reconsider the witch flounder ABC using additional information about incidental, non-target catch of the stock by groundfish vessels that was not available to the SSC when it made its initial ABC recommendation. The Council noted that it would be willing to accept the temporary risk associated with an ABC that equals the OFL of 513 mt.

The SSC met on January 20, 2016, to review the biological and economic impacts of increasing the witch flounder ABC above its initial recommendation. The Groundfish Plan Development Team also updated the 2015 catch estimate for witch flounder, which slightly increased the OFL estimate to 521 mt, and the 75 percent of  $F_{MSY}$  estimate to 399 mt.

The SSC acknowledged that an ABC closer to the OFL would be expected to result in higher rates of fishing mortality, higher probabilities of overfishing, and lower resulting biomass in 2017 compared to its initial ABC recommendation. The SSC also cautioned that a history of overly optimistic biomass projections and the risk of overestimating the OFL likely mean higher biological risks with higher ABCs. Biomass projections out to 2018, however, suggest minimal biological difference between the initial ABC recommendation and the OFL because of the short timeframe and relatively small differences in the recommended catch amounts. In each instance, however, biomass is expected to increase from the level estimated in the 2015 assessment.

An economic model of groundfish fishery suggested no overall increase in revenue with increases in the witch flounder ABC up to the OFL due to the likelihood that low quotas for other key stocks (GOM cod, GB cod, and SNE/MA yellowtail flounder) would be more restrictive. Industry members disagreed with the economic model results. They noted that the results are overly optimistic given current fishery conditions, and that they do not reflect the impact of a reduced witch flounder ABC on individual sectors.

The SSC noted that it is possible that a lower ABC for witch flounder could show economic benefits at the fishery-wide level, but could still impose economic costs at the vessel or community level. After weighing the uncertainties in the biological and economic information, the SSC ultimately recommended that the Council set the ABC no higher

than 500 mt. The SSC's discussion of its revised witch flounder ABC recommendation is available here:

[http://s3.amazonaws.com/nefmc.org/1\\_SSC\\_response\\_witchflounder\\_Jan2016\\_FINAL.pdf](http://s3.amazonaws.com/nefmc.org/1_SSC_response_witchflounder_Jan2016_FINAL.pdf).

The Council discussed the SSC's revised witch flounder ABC recommendation on January 27, 2016, and recommended a witch flounder ABC of 460 mt, which is the midpoint between the initial ABC recommendation of 399 mt and the OFL of 521 mt, for the 2016-2018 fishing years. This recommendation is 40 mt lower than the SSC's upper limit for the ABC, and was recommended by the Council to reduce the risk of overfishing while providing some flexibility for groundfish vessels to prosecute other healthy groundfish stocks such as haddock, redfish, and pollock.

An important factor in the revised ABC recommendation for witch flounder ABC is that a benchmark assessment for witch flounder will be conducted in fall of 2016, in time to re-specify witch flounder catch limits for the 2017 fishing year. This new stock assessment information is also expected to provide additional information on the rebuilding potential for witch flounder and potential adjustments to the rebuilding plan. Thus, although the Council proposes a 3-year constant ABC, the catch limits adopted are expected to be in place for only 1 year.

### *Annual Catch Limits*

#### Development of Annual Catch Limits

The U.S. ABC for each stock is divided among the various fishery components to account for all sources of fishing mortality. First, an estimate of catch expected from state waters and the "other" sub-component (i.e., non-groundfish fisheries) is deducted from the U.S. ABC. These sub-components are not subject to specific catch controls by the FMP. As

a result, the state waters and other sub-components are not allocations, and these components of the fishery are not subject to accountability measures if the catch limits are exceeded.

After the state and other sub-components are deducted, the remaining portion of the U.S.

ABC is distributed to the fishery components that receive an allocation for the stock.

Components of the fishery that receive an allocation are subject to accountability measures if they exceed their respective catch limit during the fishing year.

Once the U.S. ABC is divided, sub-annual catch limits (sub-ACLs) are set by reducing the amount of the ABC distributed to each component of the fishery to account for management uncertainty. Management uncertainty is the likelihood that management measures will result in a level of catch greater than expected. For each stock and fishery component, management uncertainty is estimated using the following criteria: Enforceability and precision of management measures, adequacy of catch monitoring, latent effort, and catch of groundfish in non-groundfish fisheries. The total ACL is the sum of all of the sub-ACLs and ACL sub-components, and is the catch limit for a particular year after accounting for both scientific and management uncertainty. Landings and discards from all fisheries (commercial and recreational groundfish fisheries, state waters, and non-groundfish fisheries) are counted against the ACL for each stock.

#### Sector and Common Pool Allocations

For stocks allocated to sectors, the commercial groundfish sub-ACL is further divided into the non-sector (common pool) sub-ACL and the sector sub-ACL, based on the total vessel enrollment in sectors and the cumulative Potential Sector Contributions (PSCs) associated with those sectors. The preliminary sector and common pool sub-ACLs proposed in this action are based on fishing year 2016 PSCs and fishing year 2015 sector rosters.

Sector specific allocations for each stock can be found in this rule in section “8. Sector Administrative Measures.”

#### Common Pool Total Allowable Catches

The common pool sub-ACL for each stock (except for SNE/MA winter flounder, windowpane flounder, ocean pout, Atlantic wolffish, and Atlantic halibut) is further divided into trimester total allowable catches (TACs). The distribution of the common pool sub-ACLs into trimesters was adopted in Amendment 16 to the FMP and is based on recent landing patterns. Once we project that 90 percent of the trimester TAC is caught for a stock, the trimester TAC area for that stock is closed for the remainder of the trimester to all common pool vessels fishing with gear capable of catching the pertinent stock. Any uncaught portion of the TAC in Trimester 1 or Trimester 2 will be carried forward to the next trimester. Overages of the Trimester 1 or Trimester 2 TAC will be deducted from the Trimester 3 TAC. Any overages of the total common pool sub-ACL will be deducted from the following fishing year’s common pool sub-ACL for that stock. Uncaught portions of the Trimester 3 TAC may not be carried over into the following fishing year. Table 8 summarizes the common pool trimester TACs proposed in this action.

Incidental catch TACs are also specified for certain stocks of concern (i.e., stocks that are overfished or subject to overfishing) for common pool vessels fishing in the special management programs (i.e., special access programs (SAPs) and the Regular B Days-at-Sea (DAS) Program), in order to limit the catch of these stocks under each program. Tables 9 through 11 summarize the proposed Incidental Catch TACs for each stock and the distribution of these TACs to each special management program.

#### Closed Area I Hook Gear Haddock Special Access Program

Overall fishing effort by both common pool and sector vessels in the Closed Area I Hook Gear Haddock SAP is controlled by an overall TAC for GB haddock, which is the target species for this SAP. The maximum amount of GB haddock that may be caught in any fishing year is based on the amount allocated to this SAP for the 2004 fishing year (1,130 mt), and adjusted according to the growth or decline of the western GB haddock biomass in relationship to its size in 2004. Based on this formula, the Council's proposed GB Haddock TAC for this SAP is 2,448 mt for the 2015 fishing year. Once this overall TAC is caught, the Closed Area I Hook Gear Haddock SAP will be closed to all groundfish vessels for the remainder of the fishing year.

**Table 5. Proposed Catch Limits for the 2016 Fishing Year (mt, live weight)**

Stock	Total ACL	Total Groundfish Fishery	Preliminary Sector	Preliminary Common Pool	Recreational Fishery	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
GB Cod	730	608	595	13					23	99
GOM Cod	473	437	273	8	157				27	10
GB Haddock	53,309	51,667	51,209	458		521			561	561
GOM Haddock	3,430	3,344	2,385	31	928	34			26	26
GB Yellowtail Flounder	261	211	207	4			42	5	NA	3
SNE/MA Yellowtail Flounder	255	182	145	37			39		5	29
CC/GOM Yellowtail Flounder	409	341	325	16					43	26
American Plaice	1,235	1,183	1,160	23					26	26
Witch Flounder	441	370	361	8					12	59
GB Winter Flounder	650	590	584	6					NA	60
GOM Winter Flounder	776	639	604	35					122	16
SNE/MA Winter Flounder	749	585	514	71					70	94
Redfish	9,837	9,526	9,471	55					103	207
White Hake	3,572	3,459	3,434	25					38	75
Pollock	20,374	17,817	17,705	112					1,279	1,279
N. Windowpane Flounder	177	66	na	66					2	109
S. Windowpane Flounder	599	104	na	104			209		37	249
Ocean Pout	155	137	na	137					2	17
Atlantic Halibut	119	91	na	91					25	4
Atlantic Wolffish	77	72	na	72					1	3

**Table 6. Proposed Catch Limits for the 2017 Fishing Year (mt, live weight)**

Stock	Total ACL	Total Groundfish Fishery	Preliminary Sector	Preliminary Common Pool	Recreational Fishery	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
GB Cod	1,197	608	975	22					37	162
GOM Cod	473	437	273	8	157				27	10
GB Haddock	46,017	44,599	44,204	395		450			484	484
GOM Haddock	4,285	4,177	2,979	39	1,160	42			33	33
GB Yellowtail Flounder	343	278	273	5			55	7	NA	4
SNE/MA Yellowtail Flounder	255	187	145	37			39		5	29
CC/GOM Yellowtail Flounder	409	341	325	16					43	26
American Plaice	1,272	1,218	1,195	23					27	27
Witch Flounder	441	370	361	8					12	59
GB Winter Flounder	650	590	584	6					NA	60
GOM Winter Flounder	776	639	604	35					122	16
SNE/MA Winter Flounder	749	585	514	71					70	94
Redfish	10,514	10,183	10,124	59					111	221
White Hake	3,448	3,340	3,315	24					36	72
Pollock	20,374	17,817	17,705	112					1,279	1,279
N. Windowpane Flounder	177	66	na	66					2	109
S. Windowpane Flounder	599	104	na	104			209		37	249
Ocean Pout	155	137	na	137					2	17
Atlantic Halibut	119	91	na	91					25	4
Atlantic Wolffish	77	72	na	72					1	3



**Table 7. Proposed Catch Limits for the 2018 Fishing Year (mt, live weight)**

Stock	Total ACL	Total Groundfish Fishery	Preliminary Sector	Preliminary Common Pool	Recreational Fishery	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
GB Cod	1,197	608	975	22					37	162
GOM Cod	473	437	273	8	157				27	10
GB Haddock	74,065	71,783	71,147	636		724			779	779
GOM Haddock	4,550	4,436	3,163	39	1,231	45			35	35
GB Yellowtail Flounder										
SNE/MA Yellowtail Flounder	255	179	142	37			38		5	29
CC/GOM Yellowtail Flounder	409	341	325	16					43	26
American Plaice	1,337	1,280	1,256	24					28	28
Witch Flounder	441	370	361	8					12	59
GB Winter Flounder	650	590	584	6					NA	60
GOM Winter Flounder	776	639	604	35					122	16
SNE/MA Winter Flounder	749	585	514	71					70	94
Redfish	10,943	10,598	10,537	61					115	230
White Hake	3,387	3,281	3,257	24					36	71
Pollock	20,374	17,817	17,705	112					1,279	1,279
N. Windowpane Flounder	177	66	na	66					2	109
S. Windowpane Flounder	599	104	na	104			209		37	249
Ocean Pout	155	137	na	137					2	17
Atlantic Halibut	119	91	na	91					25	4
Atlantic Wolffish	77	72	na	72					1	3

**Table 8. Proposed Fishing Years 2016-2018 Common Pool Trimester TACs (mt, live weight)**

Stock	2016			2017			2018		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod	3.3	4.9	5.0	5.4	8.0	8.2	5.4	8.0	8.2
GOM Cod	2.1	2.7	2.8	2.1	2.7	2.8	2.1	2.7	2.8
GB Haddock	123.5	151.0	183.0	106.6	130.3	158.0	171.6	209.8	254.3
GOM Haddock	8.4	8.1	14.6	10.5	10.1	18.2	11.1	10.7	19.3
GB Yellowtail Flounder	0.8	1.2	2.1	1.0	1.6	2.8			
SNE/MA Yellowtail Flounder	8.2	14.4	16.4	8.1	14.3	16.2	8.0	14.1	16.0
CC/GOM Yellowtail Flounder	5.5	5.5	4.7	5.5	5.5	4.7	5.5	5.5	4.7
American Plaice	5.4	8.1	9.1	5.6	8.4	9.3	5.9	8.8	9.8
Witch Flounder	2.3	2.6	3.6	2.3	2.6	3.6	2.3	2.6	3.6
GB Winter Flounder	0.5	1.4	3.9	0.5	1.4	3.9	0.5	1.4	3.9
GOM Winter Flounder	12.8	13.2	8.7	12.8	13.2	8.7	12.8	13.2	8.7
Redfish	13.7	17.0	24.2	14.7	18.2	25.9	15.3	19.0	26.9
White Hake	9.5	7.8	7.8	9.2	7.5	7.5	9.0	7.4	7.4
Pollock	31.4	39.3	41.5	31.4	39.3	41.5	31.4	39.3	41.5

*Note.* An empty cell indicates that no catch limit has been set yet for these stocks. These catch limits will be set in a future management action.

**Table 9. Proposed Common Pool Incidental Catch TACs for the 2016-2018 Fishing Years (mt, live weight)**

Stock	Percentage of Common Pool sub-ACL	2016	2017	2018
GB Cod	2%	0.26	0.43	0.43
GOM Cod	1%	0.08	0.08	0.08
GB Yellowtail Flounder	2%	0.08	0.11	0.00
CC/GOM Yellowtail Flounder	1%	0.16	0.16	0.16
American Plaice	5%	1.13	1.17	1.22
Witch Flounder	5%	0.42	0.42	0.42
SNE/MA Winter Flounder	1%	0.71	0.71	0.71

**Table 10. Percentage of Incidental Catch TACs Distributed to Each Special Management Program**

Stock	Regular B DAS Program	Closed Area I Hook Gear Haddock SAP	Eastern US/CA Haddock SAP
GB Cod	50	16	34
GOM Cod	100		
GB Yellowtail Flounder	50		50
CC/GOM Yellowtail Flounder	100		
American Plaice	100		
Witch Flounder	100		
SNE/MA Winter Flounder	100		
White Hake	100		

**Table 11. Proposed Fishing Years 2016-2018 Incidental Catch TACs for Each Special Management Program (mt, live weight)**

Stock	Regular B DAS Program			Closed Area I Hook Gear Haddock SAP			Eastern U.S./Canada Haddock SAP		
	2016	2017	2018	2016	2017	2018	2016	2017	2018
GB Cod	0.13	0.22	0.22	0.04	0.07	0.07	0.09	0.15	0.15
GOM Cod	0.08	0.08	0.08	n/a	n/a	n/a	n/a	n/a	n/a
GB Yellowtail Flounder	0.04	0.05	0.00	n/a	n/a	n/a	0.04	0.05	0.00
CC/GOM Yellowtail Flounder	0.16	0.16	0.16	n/a	n/a	n/a	n/a	n/a	n/a

Stock	Regular B DAS Program			Closed Area I Hook Gear Haddock SAP			Eastern U.S./Canada Haddock SAP		
	2016	2017	2018	2016	2017	2018	2016	2017	2018
American Plaice	1.13	1.17	1.22	n/a	n/a	n/a	n/a	n/a	n/a
Witch Flounder	0.42	0.42	0.42	n/a	n/a	n/a	n/a	n/a	n/a
SNE/MA Winter Flounder	0.71	0.71	0.71	n/a	n/a	n/a	n/a	n/a	n/a

## 5. Default Catch Limits for the 2019 Fishing Year

Framework 53 established a mechanism for setting default catch limits in the event a future management action is delayed. If final catch limits have not been implemented by the start of a fishing year on May 1, then default catch limits are set at 35 percent of the previous year's catch limit, effective until July 31 of that fishing year. If this value exceeds the Council's recommendation for the upcoming fishing year, the default catch limits will be reduced to an amount equal to the Council's recommendation for the upcoming fishing year. Because groundfish vessels are not able to fish if final catch limits have not been implemented, this measure was established to prevent disruption to the groundfish fishery. Additional description of the default catch limit mechanism is provided in the preamble to the Framework 53 final rule (80 FR 25110; May 1, 2015). The default catch limits for 2019 are summarized in Table 12.

This rule announces default catch limits for the 2019 fishing year that will become effective May 1, 2019, until July 31, 2019, unless otherwise replaced by final specifications. The preliminary sector and common pool sub-ACLs in Table 12 are based on existing 2015 sector rosters, and will be adjusted based on rosters from the 2018 fishing year. In addition, prior to the start of the 2019 fishing year, we will evaluate whether any of the default catch

limits announced in this rule exceed the Council's recommendations for 2019. If necessary, we will announce adjustments prior to May 1, 2019.

**Table 12. Default Specifications for the 2019 Fishing Year (mt, live weight)**

<b>Stock</b>	<b>U.S. ABC</b>	<b>Total ACL</b>	<b>Groundfish sub-ACL</b>	<b>Preliminary sector sub- ACL</b>	<b>Preliminary common pool sub- ACL</b>	<b>Midwater trawl fishery</b>
GB Cod	583	437	465	455	10	
GOM Cod	233	175	204	127	4	
GB Haddock	125,327	27,264	5,007	4,963	44	51
GOM Haddock	2,176	1,685	1,552	1,107	14	16
SNE/MA Yellowtail Flounder		93	66	52	14	
CC/GOM Yellowtail Flounder	315	149	119	113	5	
American Plaice	644	491	448	439	9	
Witch Flounder	334	161	129	126	3	
GB Winter Flounder	511	264	233	231	2	
GOM Winter Flounder	378	284	224	212	12	
SNE/MA Winter Flounder	555	273	205	180	25	
Redfish	5,341	4,025	3,709	3,688	21	
White Hake	1,657	1,268	1,168	1,160	8	
Pollock	12,161	7,459	6,236	6,196	39	
N. Windowpane Flounder	85	64	64	na	64	
S. Windowpane Flounder	292	218	218	na	218	
Ocean Pout	77	58	58	na	58	
Atlantic Halibut	74	55	55	na	55	
Atlantic Wolffish	39	29	29	na	29	

## **6. Groundfish At-Sea Monitoring Program Adjustments**

In this action, the Council proposes adjustments to the groundfish sector at-sea monitoring (ASM) program to make it more cost effective, while still ensuring the likelihood that discards for all groundfish stocks are monitored at a 30-percent coefficient of variation (CV). Due to changes in the 2015 revision to the Standardized Bycatch Reporting Methodology (SBRM) Amendment (80 FR 37182; June 30, 2015) that limit agency discretion in how Congressional funding is used to provide observer coverage, we are no longer able to cover industry's portion of ASM costs. As a result, in early 2015, we announced that sectors would be responsible for covering ASM costs before the end of the 2015 calendar year. We had some funding in existing contracts to cover ASM costs for a portion of the 2015 fishing year, which delayed the operations of the industry-funded ASM program until March 2016. The Council was concerned that the cost burden of the ASM program to the fishing industry would reduce, and possibly eliminate, sector profitability for the remainder of the 2015 fishing year and in future fishing years, especially in light of recent reductions in catch limits for many key groundfish stocks. While the Council has expressed interest in exploring extensive changes to the ASM program in a future action (i.e., adjusting the 30-percent CV requirement), this action only includes minor modifications to the current ASM program. The following section describes the existing industry-funded ASM program, the current methods for deriving annual ASM coverage levels, and the Council's proposed adjustments to the ASM program.

### *Description of Existing Industry-Funded ASM Program*

Amendment 16 to the Northeast Multispecies FMP (75 FR 18261; April 9, 2010) established industry-funded at-sea monitoring requirements within the sector management

system to facilitate accurate monitoring of sector catch to ensure that sector allocations would not be exceeded. Amendment 16 stated that the level of ASM coverage should be less than 100 percent of sector trips, but meet the 30-percent CV standard specified in the SBRM Amendment. While Amendment 16 established a performance standard for coverage levels, it did not provide guidance on what level the CV standard should be applied—discard estimates at the stock level for all sectors, or for each combination of sector and stock. Framework 48 to the FMP (May 3, 2013; 78 FR 26118) clarified that the CV standard was intended to apply to discard estimates at the overall stock level for all sectors combined.

Amendment 16 did not detail explicit goals for sector monitoring beyond accurate catch estimation, so the Council further articulated the goals and objectives of the sector monitoring program in Framework 48 in order to assist NMFS and the sectors in designing and evaluating proposals to satisfy monitoring requirements in sector operations plans. The ASM program goals and objectives established in Framework 48 include that groundfish sector monitoring programs improve documentation of catch, determine total catch and effort of regulated species, and achieve a coverage level sufficient to minimize effects of potential monitoring bias to the extent possible, while enhancing fleet viability. Sector monitoring programs should also reduce the cost of monitoring, streamline data management and eliminate redundancy, explore options for cost-sharing, all while recognizing the opportunity costs of insufficient monitoring. Other goals and objectives include incentivizing reducing discards, providing additional data streams for stock assessments, reducing management and/or biological uncertainty, and enhancing the safety of the monitoring program. The complete list of goals and objectives for groundfish monitoring programs is specified in the NE multispecies regulations at § 648.11(l) and in Framework 48.



For the 2010 and 2011 fishing years, there was no requirement for an industry-funded ASM program, and we were able to fund an ASM program with a target ASM coverage level of 30 percent of all trips. In addition, we provided 8-percent observer coverage through the Northeast Fishery Observer Program (NEFOP), which helps to support SBRM and stock assessments. This resulted in an overall target coverage level of 38 percent, between ASM and NEFOP, for the 2010 and 2011 fishing years. We were able to achieve a 38-percent ASM coverage level for the 2010 and 2011 fishing years because Congressional funding was appropriated to support new catch share programs, which included the implementation of the sector program. Beginning in the 2012 fishing year, we have conducted an annual analysis to predict the total coverage that would likely reach a 30-percent CV for all stocks, and would reliably estimate overall catch by sector vessels. Industry has been required to pay for their costs of ASM coverage since the 2012 fishing year, while we continued to fund NEFOP coverage. However, we were able to fully fund the industry's portion of ASM costs and NEFOP coverage during the 2012 to 2014 fishing years. Table 13 shows annual target coverage levels for the 2010 to 2015 fishing years.

**Table 13. Historic Target Coverage Level for At-Sea Monitoring**

Fishing Year	Total Coverage Level	ASM Coverage Level	NEFOP Coverage Level	Funding Source
2010	38%	30%	8%	NMFS
2011	38%	30%	8%	NMFS
2012	25%	17%	8%	NMFS
2013	22%	14%	8%	NMFS
2014	26%	18%	8%	NMFS
2015	24%	20%	4%	NMFS and Sectors

*Historic Determination of ASM Coverage Level*

As described in further detail below, the target coverage level sufficient to reach a 30-percent CV for all stocks in the fishery has been set using the most recent full fishing year of data, based on the most sensitive stock, for at least 80 percent of the discarded pounds of all groundfish stocks.

First, target coverage levels have been determined based on discard information from the most recent single full fishing year. For example, discard information was available only from the full 2013 fishing year to determine the target coverage level for the 2015 fishing year. In the initial years of the ASM program, multiple years of data were not available, and the most recent full fishing year was determined to be the best available information to predict target coverage levels.

Second, because it is necessary to estimate discards with a 30-percent CV for each of the 20 groundfish stocks, we conservatively used the individual stock that needed the highest coverage level to reach a 30-percent CV in the most recent full fishing year to predict the annual target coverage level for the upcoming fishing year. For example, in 2013, of the 20 groundfish stocks, SNE/MA yellowtail flounder needed the highest coverage level to reach a

30-percent CV. Thus, the coverage level needed to reach a 30-percent CV for SNE/MA yellowtail flounder in 2013 was used to predict the ASM coverage level for the 2015 fishing year. Since the start of the ASM program in 2010, this approach has resulted in realized annual ASM coverage levels that far exceeded the 30-percent CV requirement for a vast majority of the 20 groundfish stocks.

Finally, in the first year that the sector program was implemented, we were able to fund ASM coverage at a level that reached this precision standard for 80 percent of the discarded pounds. In each subsequent year, because Congress appropriated funds to pay for industry's ASM costs, we sought to maintain the same statistical quality achieved in the 2010 fishing year by ensuring that at least 80 percent of the discarded pounds of all groundfish stocks were estimated at a 30-percent CV or better. In some years, applying this standard has resulted in higher coverage levels than if the standard were not applied. For example, the application of this standard increased the required ASM coverage levels from 22 percent to 26 percent for the 2014 fishing year, and from 21 percent to 24 percent in the 2015 fishing year.

#### *Proposed ASM Program Adjustments*

Through this action, the Council proposes to modify the method used to set the target coverage level for the industry-funded ASM program based on 5 years of experience with ASM coverage operations for groundfish sectors and evaluation of the accumulated discard data. The Council proposed these adjustments to make the program more cost effective and smooth the fluctuations in the annual coverage level to provide additional stability for the fishing industry, while still providing coverage levels sufficient to meet the 30-percent CV requirement. The changes proposed in this action would remove ASM coverage for a certain

subset of sector trips, use more years of discard information to predict ASM coverage levels, and base the target coverage level on the predictions for stocks that would be at a higher risk for an error in the discard estimate. We are seeking comment on our preliminarily determination that the adjustments the Council proposed to the ASM program are consistent with the Northeast Multispecies FMP and Amendment 16, the Magnuson-Stevens Act and its National Standards, and other applicable law.

None of the proposed adjustments remove our obligation under Amendment 16 and Framework 48 to ensure sufficient ASM coverage to achieve a 30-percent CV for all stocks. The proposed changes would result in a target coverage level of 14 percent for the 2016 fishing year, including SBRM coverage paid in full by NEFOP. Assuming NEFOP covers 4 percent of trips as it has in recent years, this would result in sectors paying for ASM on approximately 10 percent of their vessels' trips in 2016. Though the proposed changes result in a reduced target ASM coverage level for the 2016 fishing year compared to previous years, there is no guarantee that the changes would result in reduced target coverage levels in future fishing years (i.e., using the same methods proposed here could result in higher coverage in 2017 or 2018 than in recent years).

We are only able to determine whether the target coverage level reaches the 30-percent CV for all stocks in hindsight, after a fishing year is over. Thus, while a target ASM coverage level is expected to generate a 30-percent CV on discard estimates, there is no guarantee that the required coverage level will be met or result in a 30-percent CV across all stocks due to changes in fishing effort and observed fishing activity that may happen in a given fishing year. However, during the 2010-2014 fishing years, the target coverage level

was in excess of the coverage level that would have been necessary to reach at least a 30-percent CV for almost every stock.

We expect the 2016 target coverage level to achieve results consistent with prior years based on applying the proposed 2016 target coverage level to the 2010-2014 fishing year data. For example, over the five years from 2010-2014, coverage levels of 14 percent would have achieved a 30-percent CV or better for 95 out of the 100 monitored stocks (i.e., 20 stocks x 5 years). For two of the years, (2010 and 2012), all of the stocks would have achieved a 30-percent CV or better. The lowest 30-percent CV achievement overall would have occurred in fishing year 2014, when 17 of the 20 groundfish stocks would have met the 30-percent CV under the 2016 target coverage level. The three stocks that would not have achieved the 30-percent CV included redfish, GOM winter flounder, and SNE/MA yellowtail flounder. Our application of the 2016 target coverage rate to 2010-2014 data, however, showed that stocks not achieving the 30-percent CV typically did not recur. Moreover, the only stock that would not have achieved a 30-percent CV for more than one of the five years (2 times) was SNE/MA yellowtail flounder. However, the proposed 14 percent coverage rate is projected to achieve the necessary 30-percent CV requirement for SNE/MA yellowtail flounder in 2016. Were a higher coverage level necessary to achieve the 30-percent CV requirement for this stock, coverage would be set equal to that level.

Further, the risk of not achieving the required CV level for these stocks is mitigated by a number of factors. For example, for SNE/MA yellowtail flounder, a more sizeable portion of its ACL has been caught over the last three years (58-70 percent), but less than 10 percent of total catch was made up of discards. Redfish and GOM winter flounder were underutilized over the last three fishing years (less than 50 percent of the ACL caught) and

less than 10 percent of their total catch was made up of discards. Thus, even in the unexpected event of not achieving a CV of 30 percent, the risk to these stocks of erring in the discard estimates is very low.

Table 14 describes the combined impact of the proposed adjustments, applied sequentially in Steps 1 through 4. Table 14 also lists the individual stock that would have needed the highest coverage level to reach a 30-percent CV and, in turn, be used to set the target ASM coverage level. The text that follows discusses the potential effects of each alternative on the target ASM coverage level for 2016 if each alternative were adopted in isolation.

**Table 14. Proposed ASM program adjustments and resulting 2016 ASM coverage level.**

<b>Proposed Action</b>	<b>Total 2016 Coverage Level (NEFOP + ASM)</b>	<b>Driving stock</b>
No Action	41%	Redfish
1. Remove standard that 80% of discarded pounds be monitored at a 30% CV (administrative)	37%	Redfish
2. Remove ASM coverage requirement for extra-large mesh gillnet trips	37%	Redfish
3. Use multiple years of information to determine ASM coverage levels	17%	Redfish
4. Filter the application of the 30% CV standard based on stock status and utilization	14%	SNE/MA yellowtail flounder

*Removal of Standard that 80 percent of Discarded Pounds be Monitored at a 30-percent CV*

As discussed above, from 2012 to 2015, we set coverage levels to ensure that at least 80 percent of the discarded pounds of all groundfish stocks were estimated at a 30-percent CV or better to maintain the same statistical quality achieved in the 2010 fishing year. We applied this standard during years when Congress appropriated funds to pay for industry

costs for the ASM program (2010 and 2011), and in other years when we were able to fund industry's costs for ASM (2012 – 2014, and part of 2015). In some years, applying this standard resulted in higher coverage levels than if the standard were not applied. However, this additional criterion was not necessary to satisfy the CV requirement of the ASM program or to accurately monitor sector catches, and was not required by the FMP. This action proposes to clarify the Council's intent that target ASM coverage levels for sectors should be set using only realized stock-level CVs, and should not be set using the additional administrative standard of monitoring 80 percent of discard pounds at a 30-percent CV or better. If implemented alone, removing this administrative standard would result in a target 2016 ASM coverage level of 37 percent.

*Removing ASM Coverage Requirement for Extra-Large Mesh Gillnet Trips*

Currently, sector monitoring requirements apply to any trip where groundfish catch counts against a sector's annual catch entitlement (ACE). This Council action proposes to remove the ASM coverage requirement for sector trips using gillnets with extra-large mesh (10 inches (25.4 cm) or greater) in the SNE/MA and Inshore GB Broad Stock Areas. A majority of catch on these trips is of non-groundfish stocks such as skates, monkfish, and dogfish, with minimal or no groundfish catch. As a result, applying the same level of coverage on these trips as targeted groundfish trips does not contribute to improving the overall precision and accuracy of sector discard estimates, and would not be a sufficient use of the limited resources for the ASM program. These trips would still be subject to SBRM coverage through NEFOP, and monitoring coverage levels would be consistent with non-sector trips that target non-groundfish species. If implemented alone, this alternative would result in a target ASM coverage level of 37 percent for the 2016 fishing year.

This measure is intended to reduce ASM costs to sectors with members that take this type of extra-large mesh gillnet trip. The benefit of reducing ASM coverage for these trips is that resources would be diverted to monitor trips that catch more groundfish, which could improve discard estimates for directed groundfish trips. All other sector trips would still be required to meet the CV standard at a minimum. Changes in stock size or fishing behavior on these trips could change the amount of groundfish bycatch in future fishing years. However, data from 2012 to 2014 shows that groundfish catch has represented less than 5 percent of total catch on a majority of trips, and large changes are not expected. We will continue to evaluate this measure in the future to make sure bycatch levels remain low.

Because this subset of trips would have a different coverage level than other sector trips in the SNE/MA and Inshore GB Broad Stock Areas, we would create separate discard strata for each stock caught on extra-large gillnet trips in order to ensure the different coverage levels do not bias discard estimates. At this time, no adjustments to the current notification procedures appear necessary to implement this measure. Sector vessels already declare gear type and Broad Stock Area to be fished in the Pre-Trip Notification System, which would allow us to easily identify trips that are exempt from ASM coverage.

To minimize the possibility that this measure would be used to avoid ASM coverage, only vessels declared into the SNE/MA and/or Inshore GB Broad Stock Areas using extra-large mesh gillnets would be exempt from the ASM coverage requirement. Vessels using extra-large mesh gillnet declaring into the GOM or Offshore GB Broad Stock Areas would not be exempt from the ASM coverage requirement. In addition, a vessel is already prohibited from changing its fishing plan for a trip once a waiver from coverage has been issued.



Framework 48 implemented a similar measure exempting the subset of sector trips declared into the SNE/MA Broad Stock Area on a monkfish DAS and using extra-large mesh gillnets from the standard ASM coverage level. The Framework 48 measure gave us the authority to specify some lower coverage level for these trips on an annual basis when determining coverage rates for all other sector trips. Since this measure was implemented at the start of the 2013 fishing year, the ASM coverage level for these trips has been set to zero, and these trips have only been subject to NEFOP coverage. The measure proposed in this action would supersede the Framework 48 measure because it would entirely remove the ASM coverage requirement from these trips.

#### *Using Multiple Years of Data to Determine ASM Total Coverage Levels*

Currently, data from the most recent fishing year are used to predict the target ASM coverage level for the upcoming fishing year. For example, data from the 2013 groundfish fishing year were used to set the target ASM coverage level for the 2015 fishing year. When a single year of data is used to determine the target coverage level, the entire coverage level is driven by the variability in discards in a single stock. This variability is primarily due to inter-annual changes in management measures and fishing activity. Though the target ASM coverage level has ranged from 22 to 26 percent for the last four fishing years, there is the potential that variability could result in large fluctuations of target ASM coverage levels in the future, and result in target coverage levels that are well above the level necessary to meet the 30-percent CV for most stocks. For example, available analyses indicates that, using the status quo methodology, the ASM coverage level would be 41 percent in 2016 compared to the current 2015 rate of 24 percent. Based on a 2016 target coverage level of 41 percent, the

coverage level that would have been necessary to meet a 30-percent CV in 2014 would be exceeded by 15-39 percent for 19 of the 20 stocks.

This Council action proposes using information from the most recent three full fishing years to predict target ASM coverage levels for the upcoming fishing year. For example, data from the 2012 to 2014 fishing years would be used to predict the target ASM coverage level for the 2016 fishing year. Now that five full years of discard data are available, using multiple years of data is expected to smooth inter-annual fluctuations in the level of coverage needed to meet a 30-percent CV that might result from changes to fishing activity and management measures. This measure is intended to make the annual determination of the target ASM coverage level more stable. For example, the percent coverage necessary to reach a 30-percent CV for redfish varied widely for the last 3 years (5 percent in 2012; 10 percent in 2013, and 37 percent in 2014). With this measure, the Council intended to make the annual determination of the target ASM coverage level more stable. Additional stability in predicting the annual target ASM coverage level is beneficial in the context of the industry-funded ASM program. Wide inter-annual fluctuations in the necessary coverage level would make it difficult for groundfish vessels to plan for the costs of monitoring, and for ASM service providers to adjust staffing to meet variable demands for monitoring coverage. The ability for ASM service providers to successfully meet staffing needs, including maintaining the appropriate staff numbers and retaining quality monitors, increases the likelihood of achieving the target coverage level each year. If implemented alone, using multiple years of data would result in a target 2016 ASM coverage level of 17 percent.

*Filtering the Application of the 30-percent CV Standard*

This Council action proposes to filter the application of the 30-percent CV standard consistent with existing goals for the ASM program. Under this alternative, stocks that meet all of the following criteria would not be used as the predictor for the annual target ASM coverage level for all stocks: 1) Not overfished; 2) Overfishing is not occurring; 3) Not fully utilized (less than 75 percent of sector sub-ACL harvested); and 4) Discards are less than 10 percent of total catch.

This proposed measure does not eliminate the 30-percent CV standard. Rather, this measure is intended to reflect the Council's policy that target ASM coverage level should be based on stocks that are overfished, are subject to overfishing, or are more fully utilized—stocks for which it is critical to attempt to fully account for past variability in discard estimates. Because stocks that meet all four of the filtering criteria are healthy and not fully utilized, there is a lower risk in erring in the discard estimate. Additionally, using these stocks to predict the target coverage could lead to coverage levels that are not necessary to accurately monitor sector catch.

For the 2016 fishing year, preliminary analysis shows that, under the status quo methodology for determining the ASM target coverage level, redfish would drive the target coverage level at 37 percent. However, redfish is a healthy stock, and current biomass is well above the biomass threshold. Redfish also meets all of the filtering criteria—the stock is currently not overfished, overfishing is not occurring, only 45 percent of the sector sub-ACL was harvested in 2014, and only 3 percent of total catch was made up of discards. Also, because of the high year-to-year variability in the coverage necessary to achieve the 30-percent CV standard for redfish, we expect the target coverage level of 14 percent to meet the objective.

If implemented alone, filtering the application of the 30-percent CV standard would eliminate redfish as a driver for the target ASM 2016 coverage level, and GOM winter flounder would drive coverage at 26 percent. If implemented in combination with the other alternatives, SNE/MA yellowtail flounder would drive the coverage level at 14 percent.

#### *Clarification of Groundfish Monitoring Goals and Objectives*

As described earlier in this section, Framework Adjustment 48 revised and clarified the goals and objectives of the sector monitoring program to include, among other things, improving the documentation of catch, reducing the cost of monitoring, and providing additional data streams for stock assessments. However, Framework 48 did not prioritize these goals and objectives. This Council action clarifies that the primary goal of the sector ASM program is to verify area fished, catch and discards by species, and by gear type, in a manner that would reduce the cost of monitoring. This proposed adjustment to the program goals would not affect the target ASM coverage levels.

### **7. Other Framework 55 Measures**

The Council also proposed a number of additional minor adjustments to the FMP as part of this action.

#### *Formation of Sustainable Harvest Sector II*

The Council proposes to approve the formation of a new sector, Sustainable Harvest Sector II. We must still review the sector operations plan submitted by Sustainable Harvest Sector II to ensure that it contains the required provisions for operation, and that a sufficient analysis is completed under the National Environmental Policy Act (NEPA). We propose to approve Sustainable Harvest Sector II, but intend to make our final determination concerning

what sectors are approved and allocated ACE for operations for the 2016 fishing year as part of this rulemaking.

#### *Modification of the Sector Approval Process*

This Council action proposes to modify to the sector approval process so that new sectors would not have to be approved through an FMP amendment or framework adjustment. Under the current process, new sectors must submit operations plans to the Council no less than 1 year prior to the date that it plans to begin operations (i.e, by May 1, 2016, if the sector intends to operate on May 1, 2017). The Council must decide whether to approve the formation of a new sector through an amendment or framework adjustment. NMFS then reviews the operations plan submitted by the new sector to ensure that it contains the required provisions for operation and sufficient NEPA analysis before making final determinations about the formation of the new sector consistent with the Administrative Procedure Act (APA).

Under the proposed process, new sectors would submit operations plans directly to NMFS no later than September 1 of the fishing year prior to the fishing year it intends to begin operations. For example, if a new sector wished to operate starting on May 1, 2017, it would need to submit its operations plan to NMFS no later than September 1, 2016. NMFS would notify the Council in writing of its intent to consider approving new sectors. NMFS would present the submitted sector operations plans and any supporting analysis for the new sector at a Groundfish Committee meeting and a Council meeting. After its review, the Council would submit comments to NMFS in writing and indicate whether it endorses the formation of the new sector. NMFS would then make a final determination about new sector consistent with the APA. NMFS would not initiate a rulemaking to make final

determinations on the formation of the new sector without the Council's endorsement. This modified process would shorten the timeline for, and increase the flexibility of, the sector approval process, while maintaining opportunities for Council approval and public involvement in the approval process. No other aspects of the sector formation process, including the content of sector operations plan submissions, would change as a result of this proposed measure.

#### *Modification to the Definition of the Haddock Separator Trawl*

This Council action proposes to modify the definition of the haddock separator trawl to improve the enforceability of this selective trawl gear. In many haddock separator trawls, the separator panel is made with the same mesh color as the net, which makes it difficult for enforcement to identify that this gear is properly configured during vessel inspections. This measure would require the separator panel to be a contrasting color to the portions of the net that it separates. Requiring that the separator panel be a contrasting color to the rest of the net would make the separator panel highly visible, which would improve identification of the panel during boarding, and potentially allow for faster inspections and more effective enforcement. This proposed modification does not affect rope or Ruhle trawls. If we approve this measure, we intend to delay the effective date of the requirement by 6 months to allow affected fishermen time to replace their separator panels with contrasting netting.

#### *Removal of GOM Cod Recreational Possession Limit*

This Council action proposes to remove the prohibition on recreational possession of GOM cod that was established as part of the protection measures implemented for this stock in Framework Adjustment 53. We currently set recreational management measures in consultation with the Council, and have the authority to modify bag limits, size limits, and

seasons. The Framework 53 prohibition on the recreational possession of GOM cod was implemented as a permanent provision in the FMP. In removing the permanent prohibition on recreational possession of GOM cod, this proposed measure returns the authority to set recreational management measures for GOM cod to us. We will implement additional recreational measures to help ensure the recreational fishery does not exceed the GOM cod allocation in a separate rulemaking.

#### *Distribution of Eastern/Western GB Cod Sector Allocations*

Eastern GB cod is a sub-unit of the total GB cod stock, and the total ABC for GB cod includes the shared U.S./Canada quota for eastern GB cod. A portion of a sector's GB cod allocation may only be caught in the Eastern U.S./Canada Area, and the remaining portion of its total GB cod allocation can be caught only in the Western U.S./Canada Area. This restriction was adopted by Amendment 16 in order to cap the amount of GB cod that a sector could catch in the eastern U.S./Canada Area and help prevent the United States from exceeding its eastern GB cod quota. However, limiting the amount of cod that could be caught in the western U.S./Canada Area could unnecessarily reduce flexibility, and potentially limit fishing in the area, even if a sector has not caught its entire GB cod allocation. Ultimately, this could prevent the fishery from achieving optimum yield for the GB cod stock.

To address this concern, the Council proposes in this to allow sectors to “convert” their eastern GB cod allocation into western GB cod allocation. This measure would follow a process similar to the one used for processing sector trades, and is similar to a measure already approved for GB haddock in Framework Adjustment 51 (77 FR 22421; April 22, 2014). Sectors could convert eastern GB cod allocation into western GB cod allocation at

any time during the fishing year, and up to 2 weeks into the following fishing year to cover any overage during the previous fishing year. A sector's proposed allocation conversion would be referred to, and approved by, NMFS based on general issues, such as whether the sector is complying with reporting or other administrative requirements, including weekly sector reports, or member vessel compliance with Vessel Trip Reporting requirements. Based on these factors, we would notify the sector if the conversion is approved or disapproved. As with GB haddock transfers, we propose to use member vessel compliance with Vessel Trip Reporting requirements as the basis for approving, or disapproving, a reallocation of Eastern GB quota to the Western U.S./Canada Area. This is identical to the process used for reviewing, and approving, quota transfer requests between sectors.

The responsibility for ensuring that sufficient allocation is available to cover the conversion is the responsibility of the sector. This measure would also extend to state-operated permit banks. Any conversion of eastern GB cod allocation into western GB cod allocation may be made only within a sector, or permit bank, and not between sectors or permit banks. In addition, once a portion of eastern GB cod allocation has been converted to western GB cod allocation, that portion of allocation remains western GB cod for the remainder of the fishing year. Western GB cod allocation may not be converted to eastern GB cod allocation. This proposed measure does not change the requirement that sector vessels may only catch their eastern GB cod allocation in the Eastern U.S./Canada Area, and may only catch the remainder of their GB cod allocation in the Western U.S./Canada Area.

This measure would provide additional flexibility for sectors to harvest their GB cod allocations. The total catch limit for GB cod includes the U.S. quota for eastern GB cod, so this proposed measure would not jeopardize the total ACL for GB cod, or the U.S. quota for



the eastern portion of the stock. A sector would also still be required to stop fishing in the Eastern U.S./Canada Area once its entire eastern GB cod allocation was caught, or in the Western U.S./Canada Area once its western GB cod allocation was caught, or at least until it leased in additional quota. This ensures sufficient accountability for sector catch that will help prevent overages of any GB cod catch limit.

## **8. Sector Measures for the 2016 Fishing Year**

This action also proposes measures necessary to implement sector operations plan, including sector regulatory exemptions and annual catch entitlements, for 19 sectors for the 2016 fishing year. In past years, sector operations measures have been covered in a separate, concurrent rulemaking, but are included in this rulemaking for efficiency.

### *Sector Operations Plans and Contracts*

A total of 19 sectors would operate in the 2016 fishing year, including:

- Seventeen sectors that had operations plans that had been previously approved for the 2016 fishing year (see the Final Rule for 2015 and 2016 Sector Operations Plans and 2015 Contracts and Allocation of Northeast Multispecies Annual Catch Entitlements; 80 FR 25143; May 1, 2015);
- Sustainable Harvest Sector II, discussed in section “7. Other Framework 55 Measures,” which is proposed for formation and approval as part of Framework 55; and
- Northeast Fishery Sector 12, which has not operated since 2013, but submitted an operations plan for approval for the 2016 fishing year.

We have made a preliminary determination that the two new proposed sector operations plans and contracts for Sustainable Harvest Sector II and Northeast Fisheries

Sector 12 are consistent with the FMP's goals and objectives and meet the applicable sector requirements. We request comments on the proposed operations plans and the accompanying environmental assessment (EA) for these two sectors. Copies of the operations plans and contracts, and the EA, are available at: <http://www.regulations.gov> and from NMFS (see **ADDRESSES**).

### *Sector Allocations*

Regional Administrator approval is required for sectors to receive ACEs for specific groundfish stocks. The ACE allocations are a portion of a stock's ACL available to the sector based on the collective fishing history of the sector's members. Sectors are allocated ACE for groundfish stocks for which its members have landings history, with the exception of Atlantic halibut, ocean pout, windowpane flounder, and Atlantic wolffish. These stocks are not allocated to sectors.

Each year, we use sector enrollment information from the previous fishing year to estimate ACE allocations for the upcoming fishing year. Due to the shift to industry-funded ASM, sector enrollment could decrease for the 2016 fishing year if current sector members decide to fish in the common pool to avoid the financial burden of the ASM requirement. Despite some uncertainty in 2016 enrollment levels, we expect that 2015 enrollment still provides the best proxy for fishing year 2016 sector membership, and used 2015 enrollment to calculate the fishing year 2016 projected allocations in this proposed rule.

All permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2016, to withdraw from a sector and fish in the common pool for fishing year 2016. In addition to the enrollment delay, all permits that change ownership after December 1, 2015, retain the ability to join a sector through April 30, 2016. We will publish final

sector ACEs and common pool sub-ACLs, based upon final rosters, as soon as possible after the start of the 2016 fishing year, and again after the start of the 2017 and 2018 fishing years.

The sector allocations proposed in this rule are based on the fishing year 2016 specifications described above under “3. Catch Limits for the 2016-2018 Fishing Years.” We calculate the sector’s allocation for each stock by summing its members’ potential sector contributions (PSC) for a stock, as shown in Table 15. The information presented in Table 15 is the total percentage of each commercial sub-ACL each sector would receive for the 2016 fishing year, based on their 2015 fishing year rosters. Tables 16 and 17 show the allocations each sector would receive for 2016 fishing year, based on their 2015 fishing year rosters. At the start of the fishing year, after sector enrollment is finalized, we provide the final allocations, to the nearest pound, to the individual sectors, and we use those final allocations to monitor sector catch. While the common pool does not receive a specific allocation, the common pool sub-ACLs have been included in each of these tables for comparison.

We do not assign an individual permit separate PSCs for the Eastern GB cod or Eastern GB haddock; instead, we assign a permit a PSC for the GB cod stock and GB haddock stock. Each sector’s GB cod and GB haddock allocations are then divided into an Eastern ACE and a Western ACE, based on each sector’s percentage of the GB cod and GB haddock ACLs. For example, if a sector is allocated 4 percent of the GB cod ACL and 6 percent of the GB haddock ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod TAC and 6 percent of the commercial Eastern U.S./Canada Area GB haddock TAC as its Eastern GB cod and haddock ACEs. These amounts are then subtracted from the sector’s overall GB cod and haddock allocations to determine its Western

GB cod and haddock ACEs. Framework 51 implemented a mechanism that allows sectors to “convert” their Eastern GB haddock allocation into Western GB haddock allocation (79 FR 22421; April 22, 2014) and fish that converted ACE in Western GB. This rule proposes a similar measure for GB cod under “6. Other Framework 55 Measures.”

At the start of the 2016 fishing year, we will withhold 20 percent of each sector’s 2016 fishing year allocation until we finalize fishing year 2015 catch information. If the default catch limits for the 2016 fishing year are implemented, groundfish sectors would not be subject to the 20-percent holdback. We will allow sectors to transfer fishing year 2015 ACE for 2 weeks of the fishing year following the completion of year-end catch accounting to reduce or eliminate any 2015 fishing year overages. If necessary, we will reduce any sector’s 2016 fishing year allocation to account for a remaining overage in 2015 fishing year.

**Table 15. Cumulative PSC (percentage) each sector would receive by stock for fishing year 2016.\***

Sector Name	GB Cod†	GOM Cod	GB Haddock†	GOM Haddock	GB YT Flounder	SNE/MA YT Flounder‡	CC/GOM YT Flounder‡	American Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder‡	Redfish	White Hake	Pollock
GB Cod Fixed Gear Sector (Fixed Gear Sector)	27.694499	2.60411697	5.755360518	1.873582559	0.014065303	0.36965025	3.036066503	0.978592	2.143369699	0.028412693	13.46364714	2.334028199	2.741955621	5.700232461	7.406486911
Maine Coast Community Sector (MCCS)	0.209544172	4.600244934	0.038770112	2.558599027	0.003515134	0.659621953	1.050175506	7.551057401	5.059623761	0.006783136	1.963756861	0.192030108	2.501806185	4.394764742	3.800918739
Maine Permit Bank	0.13356367	1.151604693	0.044328832	1.122501791	0.013776402	0.031768648	0.317513209	1.16380585	0.726777657	0.000217133	0.425311313	0.017880187	0.82178406	1.65253695	1.693531383
Northeast Coastal Communities Sector (NCCS)	0.180040577	0.901939603	0.137722621	0.39231453	0.835596046	0.719151243	0.621303564	0.307144341	0.295070995	0.053814572	0.925011235	0.285781447	0.455537453	0.858478535	0.515403308
NEFS 1	0	0.030667067	0	0.002486595	0	0	0.037552983	0.008557969	0.012747468	9.54953E-07	0.052051436	3.23199E-06	0	0	0
NEFS 2	5.687894047	18.30360845	10.68364767	16.45827575	1.90723756	1.398286728	18.8369872	7.785788823	12.5908369	3.217799926	18.1690099	3.181206138	14.73385933	6.047332124	11.88293817
NEFS 3	1.124229243	13.68898364	0.142548175	8.942020244	0.045912766	0.408527091	8.49865556	4.053641044	2.849440834	0.025822743	9.181332294	0.752743649	1.289751767	4.511522707	6.070162061
NEFS 4	4.14318807	9.597405796	5.335097636	8.270809838	2.1614662	2.347792266	5.462377432	9.286894705	8.49383212	0.691712475	6.242139483	1.280143849	6.642126915	8.057084511	6.161406659
NEFS 5	0.727506303	0.106490691	0.857874951	0.131472624	1.260279277	20.76328588	0.207340751	0.384981588	0.553406822	0.434302079	0.017630126	12.34662638	0.02090793	0.098752363	0.093209471
NEFS 6	2.868798943	2.958643672	2.923662617	3.855973179	2.702518084	5.263853615	3.734652453	3.891212841	5.204629066	1.504558353	4.554173598	1.937408254	5.310537267	3.914446397	3.305383724
NEFS 7	4.594070833	0.818030811	4.50882333	0.693832144	10.44501276	4.323152078	4.359600944	3.685939942	3.664668201	10.26792054	3.00699365	4.859064252	0.608476927	0.877646784	0.758293521
NEFS 8	5.890348994	0.178115436	5.863076643	0.076677132	9.741947074	5.435139581	4.317834885	1.543348675	2.116386826	15.05809284	1.042673413	9.761157879	0.53028413	0.459131138	0.571670347
NEFS 9	14.22184825	1.651873823	11.59666618	4.711835489	26.80583387	7.721214256	10.42517636	8.263119688	8.2664236	39.53809711	2.44965554	18.32925453	5.690931683	4.092160698	3.891240261
NEFS 10	0.734971715	5.427462366	0.251529927	2.588775644	0.001558849	0.540958113	13.05160144	1.707236165	2.394944893	0.0107466	18.11014966	0.72835591	0.548637748	0.915571794	1.462752389
NEFS 11	0.407171937	13.64608735	0.038172885	3.216874044	0.001526329	0.019524121	2.580138791	2.096400751	2.073624465	0.003309759	2.248671897	0.021573873	1.995777016	4.841858308	9.494305856
NEFS 13	7.95815638	0.841578343	15.96918462	0.934025674	24.73739076	18.59430082	4.743917868	5.153000148	6.173362974	7.245172042	2.054422461	10.81730202	3.982679998	1.745943429	2.278026077
New Hampshire Permit Bank	0.00082187	1.14188081	3.40501E-05	0.032289496	2.0261E-05	1.78561E-05	0.021778079	0.028471233	0.006158791	3.23751E-06	0.060517624	3.62755E-05	0.019399565	0.081273377	0.111251823
Sustainable Harvest Sector 1	1.822596096	4.341135142	2.235310723	3.93990206	0.923994992	0.435355048	2.816495859	5.751160183	3.948985	5.714888386	5.0712478	0.823364685	4.267827176	4.871669006	3.956327396
Sustainable Harvest Sector 3	19.4585015	15.39706124	32.73269154	38.9185545	16.49540297	10.37393213	11.3071658	34.4470914	31.12196251	15.23411037	5.545962681	20.04562217	47.25899124	46.15820984	35.92276189
<b>Sectors Total</b>	<b>97.8577516</b>	<b>97.38693083</b>	<b>99.11450303</b>	<b>98.72080232</b>	<b>98.09705463</b>	<b>79.40553167</b>	<b>95.42633519</b>	<b>98.08744475</b>	<b>97.69625258</b>	<b>99.03576495</b>	<b>94.58435811</b>	<b>87.71358305</b>	<b>99.42127201</b>	<b>99.27861517</b>	<b>99.37606998</b>
Common Pool	2.142248399	2.613069165	0.885496971	1.279197678	1.902945372	20.59446833	4.573664806	1.912555252	2.303747415	0.964235051	5.41564189	12.28641695	0.578727992	0.721384833	0.623930017

\* The data in this table are based on fishing year 2015 sector rosters. Sectors proposed for approval in this action (i.e., NEFS 11 and SHS 2) are not reflected here and will be included in the adjustment rule.

† For fishing year 2016, 18.9 percent of the GB cod ACL would be allocated for the Eastern U.S./Canada Area, while 28.46 percent of the GB haddock ACL would be allocated for the Eastern U.S./Canada Area.

‡ SNE/MA Yellowtail Flounder refers to the SNE/Mid-Atlantic stock. CC/COM Yellowtail Flounder refers to the Cape Cod/GOM stock.

**Table 16. Proposed ACE (in 1,000 lbs), by stock, for each sector for fishing year 2016.\*#^†**

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB YT Flounder	SNE/MA YT Flounder	CC/GOM YT Flounder	American Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	84	287	16	1,925	4,631	100	0	2	23	26	17	0	190	30	576	435	2,909
MCCS	1	2	28	13	31	136	0	3	8	197	41	0	28	2	525	335	1,493
Maine Permit Bank	0	1	7	15	36	60	0	0	2	30	6	0	6	0	173	126	665
NCCS	1	2	6	46	111	21	4	3	5	8	2	1	13	4	96	65	202
NEFS 1	-	-	0	-	-	0	-	-	0	0	0	0	1	0	-	-	-
NEFS 2	17	59	113	3,573	8,596	877	9	6	142	203	103	42	256	41	3,094	461	4,668
NEFS 3	3	12	85	48	115	476	0	2	64	106	23	0	129	10	271	344	2,384
NEFS 4	13	43	59	1,784	4,293	441	10	10	41	242	69	9	88	17	1,395	614	2,420
NEFS 5	2	8	1	287	690	7	6	87	2	10	5	6	0	159	4	8	37
NEFS 6	9	30	18	978	2,352	205	13	22	28	101	42	20	64	25	1,115	299	1,298
NEFS 7	14	48	5	1,508	3,628	37	49	18	33	96	30	134	42	63	128	67	298
NEFS 8	18	61	1	1,961	4,718	4	45	23	32	40	17	196	15	126	111	35	225
NEFS 9	43	147	10	3,878	9,331	251	125	32	78	216	67	514	35	236	1,195	312	1,528
NEFS 10	2	8	34	84	202	138	0	2	98	45	20	0	255	9	115	70	575
NEFS 11	1	4	84	13	31	171	0	0	19	55	17	0	32	0	419	369	3,729
NEFS 13	24	82	5	5,341	12,849	50	115	77	36	134	50	94	29	140	836	133	895
New Hampshire Permit Bank	0	0	7	0	0	2	0	0	0	1	0	0	1	0	4	6	44
Sustainable Harvest Sector 1	6	19	27	748	1,799	210	4	2	21	150	32	74	71	11	896	372	1,554
Sustainable Harvest Sector 3	59	202	95	10,947	26,337	2,073	77	43	85	898	254	198	78	259	9,925	3,520	14,110
<b>Sectors Total</b>	<b>298</b>	<b>1,014</b>	<b>601</b>	<b>33,148</b>	<b>79,750</b>	5,258	456	331	717	2,558	797	1,288	1,332	1,131	20,880	7,571	39,035
Common Pool	7	22	16	296	712	68	9	86	34	50	19	13	76	158	122	55	245

\*The data in this table are based on fishing year 2015 sector rosters. Sectors proposed for approval in this action (i.e., NEFS 11 and SHS 2) are not reflected here and will be included in the adjustment rule.

#Numbers are rounded to the nearest thousand lbs. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent the total allocations to each sector. NMFS will withhold 20 percent of a sector's total ACE at the start of the fishing year.

† We have used preliminary ACLs to estimate each sector's ACE.

**Table 17. Proposed ACE (in metric tons), by stock, for each sector for fishing year 2016.\*#^†**

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB YT Flounder	SNE/MA YT Flounder	CC/GOM YT Flounder	American Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	38	130	7	873	2,101	45	0	1	10	12	8	0	86	14	261	197	1,320
MCCS	0	1	13	6	14	62	0	1	4	89	19	0	13	1	238	152	677
Maine Permit Bank	0	1	3	7	16	27	0	0	1	14	3	0	3	0	78	57	302
NCCS	0	1	3	21	50	9	2	1	2	4	1	0	6	2	43	30	92
NEFS 1	-	-	0	-	-	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	8	27	51	1,621	3,899	398	4	3	64	92	47	19	116	19	1404	209	2,117
NEFS 3	2	5	38	22	52	216	0	1	29	48	11	0	59	4	123	156	1,082
NEFS 4	6	19	27	809	1,947	200	5	4	19	110	31	4	40	7	633	279	1,098
NEFS 5	1	3	0	130	313	3	3	39	1	5	2	3	0	72	2	3	17
NEFS 6	4	13	8	444	1,067	93	6	10	13	46	19	9	29	11	506	135	589
NEFS 7	6	22	2	684	1,646	17	22	8	15	44	14	61	19	28	58	30	135
NEFS 8	8	28	0	889	2,140	2	21	10	15	18	8	89	7	57	51	16	102
NEFS 9	20	67	5	1,759	4,232	114	57	15	36	98	31	233	16	107	542	142	693
NEFS 10	1	3	15	38	92	63	0	1	45	20	9	0	116	4	52	32	261
NEFS 11	1	2	38	6	14	78	0	0	9	25	8	0	14	0	190	167	1692
NEFS 13	11	37	2	2,423	5,828	23	52	35	16	61	23	43	13	63	379	60	406
New Hampshire Permit Bank	0	0	3	0	0	1	0	0	0	0	0	0	0	0	2	3	20
Sustainable Harvest Sector 1	3	9	12	339	816	95	2	1	10	68	15	34	32	5	407	169	705
Sustainable Harvest Sector 3	27	91	43	4,966	11,946	940	35	20	39	408	115	90	35	117	4502	1597	6,400
Sectors Total	135	460	273	15,036	36,174	2,385	207	150	325	1160	361	584	604	513	9471	3434	17706
Common Pool	3	10	7	134	323	31	4	39	16	23	9	6	35	72	55	25	111

\*The data in this table are based on fishing year 2015 sector rosters. Sectors proposed for approval in this action (i.e., NEFS 11 and SHS 2) are not reflected here and will be included in the adjustment rule.

#Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent the total allocations to each sector. NMFS will withhold 20 percent of a sector's total ACE at the start of the fishing year.

† We have used preliminary ACLs to estimate each sector's ACE.

### *Sector Carryover from the 2015 to 2016 Fishing Year*

Sectors can carry over up to 10 percent of the unused initial allocation for each stock into the next fishing year. However, the maximum available carryover may be reduced if up to 10 percent of the unused sector sub-ACL, plus the total ACL for the upcoming fishing year, exceeds the total ABC. Based on the catch limits proposed in this action, we evaluated whether the total potential catch in the 2016 fishing year would exceed the proposed ABC if sectors carried over the maximum 10 percent of unused allocation from 2015 to 2016 (Table 18). Under this scenario, total potential catch would exceed the 2016 ABC for all stocks except for GOM haddock and GB haddock. As a result, we expect we will need to adjust the maximum amount of unused allocation that a sector can carry forward from 2015 to 2016 (down from 10 percent). It is possible that not all sectors will have 10 percent of unused allocation at the end of the 2015 fishing year. We will make final adjustments to the maximum carryover possible for each sector based on the final 2015 catch for the sectors, each sector's total unused allocation, and proportional to the cumulative PSCs of vessels/permits participating in the sector. We will announce this adjustment as close to May 1, 2016, as possible.

Based on the catch limits proposed in this rule, the *de minimis* carryover amount for the 2016 fishing year would be set at the default one percent of the 2016 overall sector sub-ACL. The overall *de minimis* amount will be applied to each sector based on the cumulative PSCs of the vessel/permits participating in the sector. If the overall ACL for any allocated stock is exceeded for the 2016 fishing year, the allowed carryover harvested by a sector minus its specified *de minimis* amount, will be counted against its allocation to determine whether an overage, subject to an AM, occurred.



**Table 18. Evaluation of Maximum Carryover allowed from the 2015 to 2016 Fishing Years [mt, live weight]**

<b>Stock</b>	<b>2016 U.S. ABC</b>	<b>2016 Total ACL</b>	<b>Potential carryover (10% of 2015 sector sub-ACL)</b>	<b>Total potential catch (2016 total ACL + potential carryover)</b>	<b>Difference between total potential catch and ABC</b>
GB Cod	762	730	174	904	142
GOM cod	500	473	81	555	55
GB Haddock	56,068	53,309	1,705	55,015	-1,053
GOM Haddock	3,630	3,430	43	3,474	-156
SNE Yellowtail Flounder	267	256	46	302	35
CC/GOM Yellowtail Flounder	427	409	46	455	28
Plaice	1,297	1,235	136	1,370	73
Witch Flounder	460	441	60	500	40
GB Winter Flounder	668	650	336	985	317
GOM Winter Flounder	810	776	68	845	35
SNE/MA Winter Flounder	780	749	106	855	75
Redfish	10,338	9,837	1,052	10,889	551
White Hake	3,816	3,572	425	3,997	181

**Note.** Carry over of GB yellowtail flounder is not allowed because this stock is jointly managed with Canada.

### *Sector Exemptions*

Because sectors elect to receive an allocation under a quota-based system, the FMP grants sector vessels several “universal” exemptions from the FMP’s effort controls. These universal exemptions apply to: Trip limits on allocated stocks; the GB Seasonal Closure Area; NE multispecies days-at-sea (DAS) restrictions; the requirement to use a 6.5-inch (16.5-cm) mesh codend when fishing with selective gear on GB; and portions of the GOM Cod Protection Closures. The FMP prohibits sectors from requesting exemptions from permitting restrictions, gear restrictions designed to minimize habitat impacts, and reporting requirements. In addition to the “universal” exemptions approved under Amendment 16 to the Northeast Multispecies FMP, the existing 17 operational sectors and the two that are proposed for approval in this action are granted 19 additional exemptions from the NE multispecies regulations for the 2016 fishing year. These exemptions were previously approved in the sector operations rulemaking for the 2015 and 2016 fishing years. Descriptions of the current range of approved exemptions are included in the preamble to the Final Rule for 2015 and 2016 Sector Operations Plans and 2015 Contracts (80 FR 25143; May 1, 2015) and are not repeated here.

We received a request for an additional sector exemption intended to complement the proposed Framework 55 measure that would remove the ASM coverage requirement for sector trips using 10-inch (25.4-cm), or larger, mesh gillnet gear and fishing exclusively in the inshore GB and SNE/MA broad stock areas (described in section “6. Groundfish At-Sea Monitoring Program Adjustments”). If this Framework 55 measure is approved, the requested sector exemption would allow vessels on these ASM-exempted sector trips to also target dogfish using 6.5-inch (16.5-cm) mesh within the footprint and season of either the

Nantucket Shoals Dogfish Exemption Area (June 1 to October 15), the Eastern Area of the Cape Cod Spiny Dogfish Exemption Area (June 1 to December 31), and the Southern New England Dogfish Gillnet Exemption Area (May 1 to October 31). Sectors seek to participate in this exempted fishery for dogfish while simultaneously being exempted from ASM coverage on extra-large mesh sector trips (i.e., take trips using both greater than 10-inch (25.4-cm) mesh and 6.5-inch (16.5-in) mesh) in an effort to maximize the viability and profitability of their businesses. The Fixed Gear Sector requested this exemption, and we propose to grant this exemption to any sectors that modify their operations plans to include this exemption. In this rule, we propose regulatory text to detail the process for amending sector operations plans during the fishing year in section “10. Regulatory Corrections under Regional Administrator Authority.” While sector trips using this exemption would still be exempt from ASM coverage, all groundfish catch on these trips would still be attributed to a sector’s ACE.

## **9. 2016 Fishing Year Annual Measures Under Regional Administrator Authority**

The FMP gives us authority to implement certain types of management measures for the common pool fishery, the U.S./Canada Management Area, and Special Management Programs on an annual basis, or as needed. This proposed rule includes a description of these management measures that are being considered for the 2016 fishing year in order to provide an opportunity for the public to comment on whether the proposed measures are appropriate. These measures are not part of Framework 55, and were not specifically proposed by the Council. We are proposing them in conjunction with Framework 55 measures in this action for expediency purposes, and because they relate to the catch limits proposed in Framework 55.

### *Common Pool Trip Limits*

Tables 19 and 20 provide a summary of the current common pool trip limits for fishing year 2015 and the trip limits proposed for fishing year 2016. The proposed 2016 trip limits were developed after considering changes to the common pool sub-ACLs and sector rosters from 2015 to 2016, proposed trimester TACs for 2016, catch rates of each stock during 2015, and other available information.

The default cod trip limit is 300 lb (136 kg) for Handgear A vessels and 75 lb (34 kg) for Handgear B vessels. If the GOM or GB cod landing limit for vessels fishing on a groundfish DAS drops below 300 lb (136 kg), then the respective Handgear A cod trip limit must be reduced to the same limit. Similarly, the Handgear B trip limit must be adjusted proportionally (rounded up to the nearest 25 lb (11 kg)) to the DAS limit. This action proposes a GOM cod landing limit of 25 lb (11 kg) per DAS for vessels fishing on a groundfish DAS, which is 97 percent lower than the default limit specified in the regulations for these vessels (800 lb (363 kg) per DAS). As a result, the proposed Handgear A trip limit for GOM cod is reduced to 25 lb (11 kg) per trip, and the proposed Handgear B trip limit for GOM cod is maintained at 25 lb (11 kg) per trip. This action proposes a GB cod landing limit of 500 lb (227 kg) per DAS for vessels fishing on a groundfish DAS, which is 75 percent lower than the 2,000-lb (907-kg) per DAS default limit specified in the regulations for these vessels. As a result, the proposed Handgear A trip limit for GB cod is maintained at 300 lb (136 kg) per trip, and the proposed Handgear B trip limit for GB cod is reduced to 25 lb (11 kg) per trip.

Vessels with a Small Vessel category permit can possess up to 300 lb (136 kg) of cod, haddock, and yellowtail, combined, per trip. For the 2016 fishing year, we are proposing that

the maximum amount of GOM cod and haddock (within the 300-lb (136-kg) trip limit) be set equal to the possession limits applicable to multispecies DAS vessels (see Table 20). This adjustment is necessary to ensure that the trip limit applicable to the Small Vessel category permit is consistent with reductions to the trip limits for other common pool vessels, as described above.

**Table 19. Proposed Common Pool Trip Limits for the 2016 Fishing Year**

Stock	Current 2015 Trip Limit	Proposed 2016 Trip Limit
GB Cod (outside Eastern U.S./Canada Area)	2,000 lb (907 kg)/DAS, up to 20,000 lb (9,072)	500 lb (227 kg)/DAS, up to 2,500 lb/trip
GB Cod (inside Eastern U.S./Canada Area)	100 lb (45 kg)/DAS, up to 500 lb (227 kg)/trip	
GOM Cod	50 lb (23 kg)/DAS, up to 200 lb (91 kg)/trip	25 lb (11 kg)/DAS up to 100 lb (45 kg)/trip
GB Haddock	25,000 lb (11,340 kg)/trip	100,000 lb (45,359 kg)/trip
GOM Haddock	50 lb (23 kg)/DAS, up to 200 lb (91 kg)/trip	100 lb (45 kg)/DAS up to 300 lb (136 kg)/trip
GB Yellowtail Flounder	100 lb (45 kg)/trip	
SNE/MA Yellowtail Flounder	2,000 lb (907 kg)/DAS, up to 6,000 lb (2,722 kg)/trip	250 lb (113 kg)/DAS, up to 500 lb (227 kg)/trip
CC/GOM Yellowtail Flounder	1,500 lb (680 kg)/DAS up to 3,000 lb (1,361 kg)/trip	75 lb (34 kg)/DAS up to 1,500 lb (680 kg)/trip
American plaice	Unlimited	1,000 lb (454 kg)/trip
Witch Flounder	1,000 lb (454 kg)/trip	250 lb (113 kg)/trip
GB Winter Flounder	1,000 lb (454 kg)/trip	250 lb (113 kg)/trip
GOM Winter Flounder	1,000 lb (454 kg)/trip	2,000 lb (907 kg)/trip
SNE/MA Winter Flounder	3,000 lb (1,361 kg)/DAS, up to 6,000 lb (2,722 kg)/trip	2,000 lb (907 kg)/DAS, up to 4,000 lb (1,814 kg)/trip
Redfish	Unlimited	
White hake	1,500 lb (680 kg)/trip	
Pollock	10,000 lb (4,536 kg)/trip	Unlimited
Atlantic Halibut	1 fish/trip	
Windowpane Flounder	Possession Prohibited	
Ocean Pout		
Atlantic Wolffish		

**Table 20. Proposed Cod Trips Limits for Handgear A, Handgear B, and Small Vessel Category Permits for the 2016 Fishing Year**

Permit	Current 2015 Trip Limit	Proposed 2016 Trip Limit
Handgear A GOM Cod	50 lb (23 kg)/trip	25 lb (11 kg)/trip
Handgear A GB Cod	300 lb (136 kg)/trip	
Handgear B GOM Cod	25 lb (11 kg)/trip	
Handgear B GB Cod	75 lb (34 kg)/trip	25 lb (11 kg)/trip
Small Vessel Category	300 lb (136 kg) of cod, haddock, and yellowtail flounder combined	
	Maximum of 50 lb (23 kg) of GOM cod and 50 lb (23 kg) of GOM haddock within the 300-lb combined trip limit	Maximum of 25 lb (11 kg) of GOM cod and 100 lb (45 kg) of GOM haddock within the 300-lb combined trip limit

*Closed Area II Yellowtail Flounder/Haddock Special Access Program*

This action proposes to allocate zero trips for common pool vessels to target yellowtail flounder within the Closed Area II Yellowtail Flounder/Haddock SAP for fishing year 2016. Vessels could still fish in this SAP in 2016 to target haddock, but must fish with a haddock separator trawl, a Ruhle trawl, or hook gear. Vessels would not be allowed to fish in this SAP using flounder trawl nets. This SAP is open from August 1, 2016, through January 31, 2017.

We have the authority to determine the allocation of the total number of trips into the Closed Area II Yellowtail Flounder/Haddock SAP based on several criteria, including the GB yellowtail flounder catch limit and the amount of GB yellowtail flounder caught outside of the SAP. The FMP specifies that no trips should be allocated to the Closed Area II Yellowtail Flounder/Haddock SAP if the available GB yellowtail flounder catch is

insufficient to support at least 150 trips with a 15,000-lb (6,804-kg) trip limit (or 2,250,000 lb (1,020,600 kg)). This calculation accounts for the projected catch from the area outside the SAP. Based on the proposed fishing year 2016 GB yellowtail flounder groundfish sub-ACL of 465,175 lb (211,000 kg), there is insufficient GB yellowtail flounder to allocate any trips to the SAP, even if the projected catch from outside the SAP area is zero. Further, given the low GB yellowtail flounder catch limit, catch rates outside of this SAP are more than adequate to fully harvest the 2016 GB yellowtail flounder allocation.

#### **10. Regulatory Corrections under Regional Administrator Authority**

The following changes are being proposed to the regulations to clarify regulatory intent, correct references, inadvertent deletions, and other minor errors.

In § 648.87(b)(4)(i)(G), this proposed rule would revise text to clarify that NMFS will determine the adequate level of insurance that monitoring service providers must provide to cover injury, liability, and accidental death to cover at-sea monitors, and notify potential service providers.

In § 648.87(c)(2)(i)(A), this proposed rule would correct the inadvertent deletion of the definition of the Fippennies Ledge Area.

In § 648.87(c), this proposed rule would add regulatory text to detail the process for amending sector operations plans during the fishing year.

#### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with Framework 55, other provisions of the Magnuson-Stevens Act, and other applicable law. In

making the final determination, we will consider the data, views, and comments received during the public comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This proposed rule does not contain policies with Federalism or “takings” implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule would have on small entities, including small businesses, and also determines ways to minimize these impacts. The IRFA includes this section of the preamble to this rule and analyses contained in Framework 55 and its accompanying EA/RIR/IRFA. A copy of the full analysis is available from the Council (see **ADDRESSES**). A summary of the IRFA follows.

*Description of the Reason Why Action by the Agency is Being Considered and Statement of the Objective of, and Legal Basis for, this Proposed Rule*

This action proposes management measures, including annual catch limits, for the multispecies fishery in order to prevent overfishing, rebuild overfished groundfish stocks, and achieve optimum yield in the fishery. A complete description of the action, why it is being considered, and the legal basis for this action are contained in Framework 55, and elsewhere in the preamble to this proposed rule, and are not repeated here.

*Description and Estimate of the Number of Small Entities to which the Proposed Rule Would Apply*

The Small Business Administration defines a small business as one that is:



- Independently owned and operated;
- Not dominant in its field of operation;
- Has annual receipts that do not exceed –
  - \$20.5 million in the case of commercial finfish harvesting entities (NAIC<sup>1</sup> 114111)
  - \$5.5 million in the case of commercial shellfish harvesting entities (NAIC 114112)
  - \$7.5 million in the case of for-hire fishing entities (NAIC 114119); or
- Has fewer than -
  - 750 employees in the case of fish processors
  - 100 employees in the case of fish dealers.

This proposed rule impacts commercial and recreational fish harvesting entities engaged in the groundfish fishery, the small-mesh multispecies and squid fisheries, the midwater trawl herring fishery, and the scallop fishery. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, even beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic

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<sup>1</sup> The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

dependency. For the purposes of the Regulatory Flexibility Act analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

Ownership entities are defined as those entities with common ownership personnel as listed on the permit application. Only permits with identical ownership personnel are categorized as an ownership entity. For example, if five permits have the same seven persons listed as co-owners on their permit application, those seven persons would form one ownership entity that holds those five permits. If two of those seven owners also co-own additional vessels, these two persons would be considered a separate ownership entity.

On June 1 of each year, NMFS identifies ownership entities based on a list of all permits for the most recent complete calendar year. The current ownership dataset used for this analysis was created on June 1, 2015, based on calendar year 2014 and contains average gross sales associated with those permits for calendar years 2012 through 2014.

In addition to classifying a business (ownership entity) as small or large, a business can also be classified by its primary source of revenue. A business is defined as being primarily engaged in fishing for finfish if it obtains greater than 50 percent of its gross sales from sales of finfish. Similarly, a business is defined as being primarily engaged in fishing for shellfish if it obtains greater than 50 percent of its gross sales from sales of shellfish.

A description of the specific permits that are likely to be impacted by this action is provided below, along with a discussion of the impacted businesses, which can include multiple vessels and/or permit types.

#### *Regulated Commercial Fish Harvesting Entities*

Table 18 describes the total number of commercial business entities potentially regulated by the proposed action. As of June 1, 2015, there were 1,359 commercial business

entities potentially regulated by the proposed action. These entities participate in, or are permitted for, the groundfish, small-mesh multispecies, herring midwater trawl, and scallop fisheries. For the groundfish fishery, the proposed action directly regulates potentially affected entities through catch limits and other management measures designed to achieve the goals and objectives of the FMP. For the non-groundfish fisheries, the proposed action includes allocations for groundfish stocks caught as bycatch in these fisheries. For each of these fisheries, there are accountability measures that are triggered if their respective allocations are exceeded. As a result, the likelihood of triggering an accountability measure is a function of changes to the ACLs each year.

**Table 18. Commercial Fish Harvesting Entities Regulated by the Proposed Action**

Type	Total Number	Classified as Small Businesses
Primarily finfish	385	385
Primarily shellfish	480	462
Primarily for hire	297	297
No Revenue	197	197
Total	1,359	1,341

#### Limited Access Groundfish Fishery

The proposed action will directly impact entities engaged in the limited access groundfish fishery. The limited access groundfish fishery consists of those enrolled in the sector program and those in the common pool. Both sectors and the common pool are subject to catch limits, and accountability measures that prevent fishing in a respective stock area when the entire catch limit has been caught. Additionally, common pool vessels are subject to DAS restrictions and trip limits. All permit holders are eligible to enroll in the sector program; however, many vessels remain in the common pool because they have low

catch histories of groundfish stocks, which translate into low PSCs. Low PSCs limit a vessel's viability in the sector program. In general, businesses enrolled in the sector program rely more heavily on sales of groundfish species than vessels enrolled in the common pool.

As of June 1, 2015 (just after the start of the 2015 fishing year), there were 1,068 individual limited access multispecies permits. Of these, 627 were enrolled in the sector program, and 441 were in the common pool. For fishing year 2014, which is the most recent complete fishing year, 717 of these limited access permits had landings of any species, and 273 of these permits had landings of groundfish species.

Of the 1,068 individual limited access multispecies permits potentially impacted by this action, there are 661 distinct ownership entities. Of these, 649 are categorized as small entities, and 12 are categorized as large entities. However, these totals may mask some diversity among the entities. Many, if not most, of these ownership entities maintain diversified harvest portfolios, obtaining gross sales from many fisheries and not dependent on any one. However, not all are equally diversified. This action is most likely to affect those entities that depend most heavily on sales from harvesting groundfish species. There are 61 entities that are groundfish-dependent (obtain more than 50 percent of gross sales from groundfish species), all of which are small, and all but one of which are finfish commercial harvesting businesses.

#### Limited Access Scallop Fisheries

The limited access scallop fisheries include Limited Access (LA) scallop permits and Limited Access General Category (LGC) scallop permits. LA scallop businesses are subject to a mixture of DAS restrictions and dedicated area trip restrictions. LGC scallop businesses are able to acquire and trade LGC scallop quota, and there is an annual cap on

quota/landings. The scallop fishery receives an allocation for GB and SNE/MA yellowtail flounder and southern windowpane flounder. If these allocations are exceeded, accountability measures are implemented in a subsequent fishing year. These accountability measures close certain areas of high groundfish bycatch to scallop fishery, and the length of the closure depends on the magnitude of the overage.

Of the total commercial business entities potentially affected by this action (1,359), there are 169 scallop fishing entities. The majority of these entities are defined as shellfish businesses (166). However, three of these entities are defined as finfish businesses, all of which are small. Of the total scallop fishing entities, 154 entities are classified as small entities.

#### Midwater Trawl Fishery

There are five categories of permits for the herring fishery. Three of these permit categories are limited access, and vary based on the allowable herring possession limits and areas fished. The remaining two permit categories are open access. Although there is a large number of open access permits issued each year, these categories are subject to fairly low possession limits for herring, account for a very small amount of the herring landings, and derive relatively little revenue from the fishery. Only the midwater trawl herring fishery receives an allocation of GOM and GB haddock. Once the entire allocation for either stock has been caught, the directed herring fishery for midwater trawl vessels is closed in the respective area for the remainder of the fishing year. Additionally, if the midwater trawl fishery exceeds its allocation, the overage is deducted from its allocation in the following fishing year.

Of the total commercial business entities potentially regulated by this action (1,359), there are 63 herring fishing entities. Of these, 39 entities are defined as finfish businesses, all of which are small. There are 24 entities that are defined as shellfish businesses, and 18 of these are considered small. For the purposes of this analysis, squid is classified as shellfish. Thus, because there is some overlap with the herring and squid fisheries, it is likely that these shellfish entities derive most of their revenues from the squid fishery.

#### Small-Mesh Fisheries

The small-mesh exempted fisheries allow vessels to harvest species in designated areas using mesh sizes smaller than the minimum mesh size required by the Northeast Multispecies FMP. To participate in the small-mesh multispecies (whiting) fishery, vessels must hold either a limited access multispecies permit or an open access multispecies permit. Limited access multispecies permit holders can only target whiting when not fishing under a DAS or a sector trip, and while declared out of the fishery. A description of limited access multispecies permits was provided above. Many of these vessels target both whiting and longfin squid on small-mesh trips, and, therefore, most of them also have open access or limited access Squid, Mackerel, and Butterfish (SMB) permits. As a result, SMB permits were not handled separately in this analysis.

The small-mesh fisheries receive an allocation of GB yellowtail flounder. If this allocation is exceeded, an accountability measure is triggered for a subsequent fishing year. The accountability measure requires small-mesh vessels to use selective trawl gear when fishing on GB. This gear restriction is only implemented for 1 year as a result of an overage, and is removed as long as additional overages do not occur.

Of the total commercial harvesting entities potentially affected by this action, there are 1,007 small-mesh entities. However, this is not necessarily informative because not all of these entities are active in the whiting fishery. Based on the most recent information, 223 of these entities are considered active, with at least 1 lb of whiting landed. Of these entities, 167 are defined as finfish businesses, all of which are small. There are 56 entities that are defined as shellfish businesses, and 54 of these are considered small. Because there is overlap with the whiting and squid fisheries, it is likely that these shellfish entities derive most of their revenues from the squid fishery.

#### *Regulated Recreational Party/Charter Fishing Entities*

The charter/party permit is an open access groundfish permit that can be requested at any time, with the limitation that a vessel cannot have a limited access groundfish permit and an open access party/charter permit concurrently. There are no qualification criteria for this permit. Charter/party permits are subject to recreational management measures, including minimum fish sizes, possession restrictions, and seasonal closures.

During calendar year 2015, 425 party/charter permits were issued. Of these, 271 party/charter permit holders reported catching and retaining any groundfish species on at least one for-hire trip. A 2013 report indicated that, in the northeast U.S., the mean gross sales was approximately \$27,650 for a charter business and \$13,500 for a party boat. Based on the available information, no business approached the \$7.5 million large business threshold. Therefore, the 425 potentially regulated party/charter entities are all considered small businesses.

*Description of the Projected Reporting, Record-keeping, and other Compliance*

*Requirements of this Proposed Rule*

The proposed action contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement will be submitted to OMB for approval under OMB Control Number 0648-0605: Northeast Multispecies Amendment 16 Data Collection. The proposed action does not duplicate, overlap, or conflict with any other Federal rules.

This action proposes to adjust the ACE transfer request requirement implemented through Amendment 16. This rule would add a new entry field to the Annual Catch Entitlement (ACE) transfer request form to allow a sector to indicate how many pounds of eastern GB cod ACE it intends to re-allocate to the Western U.S./Canada Area. This change is necessary to allow a sector to apply for a re-allocation of eastern GB ACE in order to increase fishing opportunities in the Western U.S./Canada Area. Currently, all sectors use the ACE transfer request form to initiate ACE transfers with other sectors, or to re-allocation eastern GB haddock ACE to the Western U.S./Canada Area, via an online or paper form to the Regional Administrator. The proposed change adds a single field to this form, and would not affect the number of entities required to comply with this requirement. Therefore, the proposed change would not be expected to increase the time or cost burden associated with the ACE transfer request requirement. Public reporting burden for this requirement includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of



information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

*Federal Rules Which May Duplication, Overlap, or Conflict with this Proposed Rule*

The proposed regulations do not create overlapping regulations with any state regulations or other federal laws.

*Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities*

The economic impacts of each proposed measure is discussed in more detail in sections 7.4 and 8.11 of the Framework 55 Environmental Assessment and are not repeated here. The only alternatives to the proposed action that accomplish the stated objectives and minimize significant economic impacts on small entities are related to the witch flounder ABCs under the annual catch limits and the alternative to modify the definition of the haddock separator trawl.

*Witch Flounder ABCs and Groundfish Annual Catch Limits*

The proposed action would set catch limits for all 20 groundfish stocks. For 19 of the stocks, there is only a single catch limit alternative to the No Action alternative, described in Table 5 in the preamble. For witch flounder, there are three non-selected alternatives to the proposed ABC of 460 mt, namely 399 mt, 500 mt, and the No Action alternative. In each of these witch flounder alternatives, except for the No Action alternative, all other groundfish stock allocations would remain the same as those described in Table 5. It is important to note that all of the non-selected action alternatives assume a 14-percent target ASM coverage

level for 2016. The No Action alternative assumes a 41-percent target ASM coverage level for 2016.

For the commercial groundfish fishery, the proposed catch limits (460 mt witch flounder ABC) are expected to result in a 10-percent decrease in gross revenues on groundfish trips, or \$8 million, compared to predicted gross revenues for the 2015 fishing year. The impacts of the proposed catch limits would not be uniformly distributed across vessels size classes and ports. Vessels in the 30-50 ft (9-15 m) category are expected to see gross revenue increases of 2 percent. Vessels in the 50-75 ft (15-23 m) size class are expected to see revenue increases of 19 percent. The largest vessels (75 ft (23 m) and greater) are predicted to incur the largest decreases in gross revenues revenue decreases of 30 percent relative to 2015, due primarily to reductions in several GB and SNE/MA stocks (e.g., GB cod, GB winter flounder, SNE/MA yellowtail flounder, SNE/MA winter flounder).

Southern New England ports are expected to be negatively impacted, with New Jersey, New York, and Rhode Island predicted to incur revenue losses of 100 percent, 80 percent, and 62 percent, respectively, relative to 2015. These large revenue losses are also due to reductions in GB and SNE/MA stocks. Maine and Massachusetts are also predicted to incur revenue losses of 16 percent and 6 percent, respectively, as a result of the proposed catch limits, while New Hampshire is expected to have small increases in gross revenues of up to 8 percent. For major home ports, New Bedford is predicted to see a 47-percent decline in revenues relative to 2015, and Point Judith expected to see a 58-percent decline. Boston and Gloucester, meanwhile, are predicted to have revenue increases of 31 and 29 percent, respectively, compared to 2015.

Two of the three non-selected alternatives would have set all groundfish allocations at the levels described in Table 5, with the exception of the witch flounder allocation. In the alternative where the witch flounder ABC is set at 399 mt, gross revenues are predicted to be the same as for the proposed alternative (460-mt witch flounder ABC), namely a 10-percent decrease in gross revenues on groundfish trips, or \$8 million, compared to predicted gross revenues for the 2015 fishing year. The 399-mt alternative is also expected to provide the same changes in gross revenue by vessels size class. In the alternative where the witch flounder ABC is set at 500 mt, gross revenues are predicted to be slightly lower than the proposed alternative, namely an 11-percent decrease in gross revenues on groundfish trips, or \$9 million, compared to predicted gross revenues for fishing year 2015. Vessels in the 30-50 ft (9-15 m) category are expected to see gross revenue increases of 4 percent. Vessels in the 50-75 ft (15-23 m) size class are expected to see revenue increases of 15 percent. The largest vessels (75 ft (23 m) and greater) are predicted to incur the largest decreases in gross revenues revenue decreases of 28 percent relative to 2015. State and port-level impacts are also similar across the action alternatives.

Under the No Action option, groundfish vessels would only have 3 months (May, June, and July) to operate in the 2016 fishing year before the default specifications expire. Once the default specifications expire, there would be no ACL for a number of the groundfish stocks, and the fishery would be closed for the remainder of the fishing year. This would result in greater negative economic impacts for vessels compared to the proposed action due to lost revenues as a result of being unable to fish. The proposed action is predicted to result in approximately \$69 million in gross revenues from groundfish trips. Roughly 92 percent of this revenue would be lost if no action was taken to specify catch

limits. Further, if no action was taken, the Magnuson-Stevens Act requirements to achieve optimum yield and consider the needs of fishing communities would be violated.

Each of the 2016 ACL alternatives show a decrease in gross revenue when compared to the 2015 fishing year. When compared against each other, the economic analysis of the various witch flounder ABC alternatives did not show any gain in gross revenue at the fishery level, or any wide difference in vessel and port-level gross revenue, as the witch flounder ABC increased. The economic analysis consistently showed other stocks (GB cod, GOM cod, and SNE/MA yellowtail flounder) would be more constraining than witch flounder, which may partially explain the lack of predicted revenue increases with higher witch flounder ABCs. In addition, there are other assumptions in the economic analysis that may mask sector and vessel level impacts that could result from alternatives with lower witch flounder ABCs. Ultimately, the proposed alternative (460-mt witch flounder ABC) is expected to mitigate potential economic impacts to fishing communities compared to both the No Action alternative and the 399-mt witch flounder ABC alternative, while reducing the biological concerns of an increased risk of overfishing compared to the 500-mt witch flounder ABC alternative.

The proposed catch limits are based on the latest stock assessment information, which is considered the best scientific information available, and the applicable requirements in the FMP and the Magnuson-Stevens Act. With the exception of witch flounder, the only other possible alternatives to the catch limits proposed in this action that would mitigate negative impacts would be higher catch limits. Alternative, higher catch limits, however, are not permissible under the law because they would not be consistent with the goals and objectives of the FMP, or the Magnuson-Stevens Act, particularly the requirement to prevent

overfishing. The Magnuson-Stevens Act, and case law, prevent implementation of measures that conflict with conservation requirements, even if it means negative impacts are not mitigated. The catch limits proposed in this action are the highest allowed given the best scientific information available, the SSC's recommendations, and requirements to end overfishing and rebuild fish stocks. The only other catch limits that would be legal would be lower than those proposed in this action, which would not mitigate the economic impacts of the proposed catch limits.

*Modification of the Definition of the Haddock Separator Trawl*

The proposed action would modify the current definition of the haddock separator trawl to require that the separator panel contrasts in color to the portions of the net that it separates. An estimated 46 unique vessels had at least one trip that used a haddock separator trawl from 2013-2015. The costs for labor and installation of a new separator panel are estimated to range from \$560 to \$1,400 per panel. The No Action alternative would not modify the current definition of the haddock separator trawl. The proposed action is expected to expedite Coast Guard vessel inspections when compared to the No Action alternative, which could improve enforceability of this gear type and reduce delays in fishing operations while inspections occur.

## **List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 11, 2016.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs,*

*National Marine Fisheries Service.*

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

### **PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 648.14, revise paragraph (k)(16)(iii)(B) to read as follows:

#### **§ 648.14 Prohibitions.**

\* \* \* \* \*

(k) \* \* \*

(16) \* \* \*

(iii) \* \* \*

(B) Fail to comply with the requirements specified in § 648.81(f)(5)(v) when fishing in the areas described in § 648.81(d)(1), (e)(1), and (f)(4) during the time periods specified.

3. In § 648.85, revise paragraph (a)(3)(iii)(A) to read as follows:

#### **§ 648.85 Special management programs.**

(a) \* \* \*

(3) \* \* \*

(iii) \* \* \*

(A) *Haddock Separator Trawl*. A haddock separator trawl is defined as a groundfish trawl modified to a vertically-oriented trouser trawl configuration, with two extensions arranged one over the other, where a codend shall be attached only to the upper extension, and the bottom extension shall be left open and have no codend attached. A horizontal large-mesh separating panel constructed with a minimum of 6.0-inch (15.2-cm) diamond mesh must be installed between the selvages joining the upper and lower panels, as described in paragraphs (a)(3)(iii)(A) and (B) of this section, extending forward from the front of the trouser junction to the aft edge of the first belly behind the fishing circle. The horizontal large-mesh separating panel must be constructed with mesh of a contrasting color to the upper and bottom extensions of the net that it separates.

(1) *Two-seam bottom trawl nets*—For two seam nets, the separator panel will be constructed such that the width of the forward edge of the panel is 80-85 percent of the width of the after edge of the first belly of the net where the panel is attached. For example, if the belly is 200 meshes wide (from selvedge to selvedge), the separator panel must be no wider than 160-170 meshes wide.

(2) *Four-seam bottom trawl nets*—For four seam nets, the separator panel will be constructed such that the width of the forward edge of the panel is 90-95 percent of the width of the after edge of the first belly of the net where the panel is attached. For example, if the belly is 200 meshes wide (from selvedge to selvedge), the separator panel must be no wider than 180-190 meshes wide. The separator panel will be attached to both of the side panels of

the net along the midpoint of the side panels. For example, if the side panel is 100 meshes tall, the separator panel must be attached at the 50th mesh.

\* \* \* \* \*

3. In § 648.87:

A. Revise paragraphs (a)(1) and (2), (b)(1)(i)(B)(2), (b)(1)(v)(B) introductory text, and (b)(1)(v)(B)(I)(i);

B. Add paragraph (b)(1)(v)(B)(I)(ii);

C. Revise paragraph (b)(4)(i)(G);

D. Add paragraphs (c)(2)(i)(A), reserved paragraph (c)(2)(i)(B), and (c)(4); and

E. Revise paragraphs, (d), and (e)(3)(iv).

The revisions and additions read as follows:

**§ 648.87 Sector allocation.**

(a) *Procedure for approving/implementing a sector allocation proposal.* (1) Any person may submit a sector allocation proposal for a group of limited access NE multispecies vessels to NMFS. The sector allocation proposal must be submitted to the Council and NMFS in writing by the deadline for submitting an operations plan and preliminary sector contract that is specified in paragraph (b)(2) of this section. The proposal must include a cover letter requesting the formation of the new sector, a complete sector operations plan and preliminary sector contract, prepared as described in in paragraphs (b)(2) and (3) of this section, and appropriate analysis that assesses the impact of the proposed sector, in compliance with the National Environmental Policy Act.



(2) Upon receipt of a proposal to form a new sector allocation, and following the deadline for each sector to submit an operations plan, as described in paragraph (b)(2) of this section, NMFS will notify the Council in writing of its intent to consider a new sector allocation for approval. The Council will review the proposal(s) and associated NEPA analyses at a Groundfish Committee and Council meeting, and provide its recommendation on the proposed sector allocation to NMFS in writing. NMFS will make final determinations regarding the approval of the new sectors based on review of the proposed operations plans, associated NEPA analyses, and the Council's recommendations, and in a manner consistent with the Administrative Procedure Act. NMFS will only approve a new sector that has received the Council's endorsement.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) \* \* \*

(B) \* \* \*

(2) *Re-allocation of haddock or cod ACE.* A sector may re-allocate all, or a portion, of a its haddock or cod ACE specified to the Eastern U.S./Canada Area, pursuant to paragraph (b)(1)(i)(B)(I) of this section, to the Western U.S./Canada Area at any time during the fishing year, and up to 2 weeks into the following fishing year (i.e., through May 14), unless otherwise instructed by NMFS, to cover any overages during the previous fishing year. Re-allocation of any ACE only becomes effective upon approval by NMFS, as specified in paragraphs (b)(1)(i)(B)(2)(i) through (iii) of this section. Re-allocation of haddock or cod ACE may only be made within a sector, and not between sectors. For

example, if 100 mt of a sector's GB haddock ACE is specified to the Eastern U.S./Canada Area, the sector could re-allocate up to 100 mt of that ACE to the Western U.S./Canada Area.

(i) *Application to re-allocate ACE.* GB haddock or GB cod ACE specified to the Eastern U.S./Canada Area may be re-allocated to the Western U.S./Canada Area through written request to the Regional Administrator. This request must include the name of the sector, the amount of ACE to be re-allocated, and the fishing year in which the ACE re-allocation applies, as instructed by the Regional Administrator.

(ii) *Approval of request to re-allocate ACE.* NMFS shall approve or disapprove a request to re-allocate GB haddock or GB cod ACE provided the sector, and its participating vessels, are in compliance with the reporting requirements specified in this part. The Regional Administrator shall inform the sector in writing, within 2 weeks of the receipt of the sector's request, whether the request to re-allocate ACE has been approved.

(iii) *Duration of ACE re-allocation.* GB haddock or GB cod ACE that has been re-allocated to the Western U.S./Canada Area pursuant to this paragraph (b)(1)(i)(B)(2) is only valid for the fishing year in which the re-allocation is approved, with the exception of any requests that are submitted up to 2 weeks into the subsequent fishing year to address any potential ACE overages from the previous fishing year, as provided in paragraph (b)(1)(iii) of this section, unless otherwise instructed by NMFS.

\* \* \* \* \*

(v) \* \* \*

(B) *Independent third-party monitoring program.* A sector must develop and implement an at-sea or electronic monitoring program that is satisfactory to, and approved

by, NMFS for monitoring catch and discards and utilization of sector ACE, as specified in this paragraph (b)(1)(v)(B). The primary goal of the at-sea/electronic monitoring program is to verify area fished, as well as catch and discards by species and gear type, in the most cost-effective means practicable. All other goals and objectives of groundfish monitoring programs at § 648.11(l) are considered equally-weighted secondary goals. The details of any at-sea or electronic monitoring program must be specified in the sector's operations plan, pursuant to paragraph (b)(2)(xi) of this section, and must meet the operational standards specified in paragraph (b)(5) of this section. Electronic monitoring may be used in place of actual observers if the technology is deemed sufficient by NMFS for a specific trip type based on gear type and area fished, in a manner consistent with the Administrative Procedure Act. The level of coverage for trips by sector vessels is specified in paragraph (b)(1)(v)(B)(I) of this section. The at-sea/electronic monitoring program shall be reviewed and approved by the Regional Administrator as part of a sector's operations plans in a manner consistent with the Administrative Procedure Act. A service provider providing at-sea or electronic monitoring services pursuant to this paragraph (b)(1)(v)(B) must meet the service provider standards specified in paragraph (b)(4) of this section, and be approved by NMFS in a manner consistent with the Administrative Procedure Act.

(I) \* \* \*

(i) *At-sea/electronic monitoring.* Coverage levels must be sufficient to at least meet the coefficient of variation specified in the Standardized Bycatch Reporting Methodology at the overall stock level for each stock of regulated species and ocean pout, and to monitor sector operations, to the extent practicable, in order to reliably estimate overall catch by sector

vessels. In making its determination, NMFS shall take into account the primary goal of the at-sea/electronic monitoring program to verify area fished, as well as catch and discards by species and gear type, in the most cost-effective means practicable, the equally-weighted secondary goals and objectives of groundfish monitoring programs detailed at § 648.11(l), the National Standards and requirements of the Magnuson-Stevens Act, and any other relevant factors. NMFS will determine the total target coverage level (i.e., combined NEFOP coverage and at-sea/electronic monitoring coverage) for the upcoming fishing year using the criteria in this paragraph. Annual coverage levels will be based on the most recent 3-year average of the total required coverage level necessary to reach the required coefficient of variation for each stock. For example, if data from the 2012 through 2014 fishing years are the most recent three complete fishing years available for the fishing year 2016 projection, NMFS will use data from these three years to determine 2016 target coverage levels. For each stock, the coverage level needed to achieve the required coefficient of variation would be calculated first for each of the 3 years and then averaged (e.g., (percent coverage necessary to meet the required coefficient of variation in year 1 + year 2 + year 3) / 3). The coverage level that will apply is the maximum stock-specific rate after considering the following criteria. For a given fishing year, stocks that are not overfished, with overfishing not occurring according to the most recent available stock assessment, and that in the previous fishing year have less than 75 percent of the sector sub-ACL harvested and less than 10 percent of catch comprised of discards, will not be used to predict the annual target coverage level. A stock must meet all of these criteria to be eliminated as a predictor for the annual target coverage level for a given year.

(ii) A sector vessel that declares its intent to exclusively fish using gillnets with a mesh size of 10-inch (25.4-cm) or greater in either the Inshore GB Stock Area, as defined at § 648.10(k)(3)(ii), and/or the SNE Broad Stock Area, as defined at § 648.10(k)(3)(iv), is not subject to the coverage rate specified in this paragraph (b)(1)(v)(B)(I) of this section provided that the trip is limited to the Inshore GB and/or SNE Broad Stock Areas and that the vessel only uses gillnets with a mesh size of 10-inches (25.4-cm) or greater. When on such a trip, other gear may be on board provided that it is stowed and not available for immediate use as defined in § 648.2. A sector trip fishing with 10-inch (25.4-cm) mesh or larger gillnets will still be subject to the annual coverage rate if the trip declares its intent to fish in any part of the trip in the GOM Stock area, as defined at § 648.10(k)(3)(i), or the Offshore GB Stock Area, as defined at § 648.10(k)(3)(iii).

\* \* \* \* \*

(4) \* \* \*

(i) \* \* \*

(G) Evidence of adequate insurance (copies of which shall be provided to the vessel owner, operator, or vessel manager, when requested) to cover injury, liability, and accidental death to cover at-sea monitors (including during training); vessel owner; and service provider. NMFS will determine the adequate level of insurance and notify potential service providers;

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) \* \* \*

(A) *Fippennies Ledge Area*. The Fippennies Ledge Area is bounded by the following coordinates, connected by straight lines in the order listed:

Fippennies Ledge Area		
Point	N. Latitude	W. Longitude
1	42°50.0'	69°17.0'
2	42°44.0'	69°14.0'
3	42°44.0'	69°18.0'
4	42°50.0'	69°21.0'
1	42°50.0'	69°17.0'

(B) [Reserved]

\* \* \* \* \*

(4) Any sector may submit a written request to amend its approved operations plan to the Regional Administrator. If the amendment is administrative in nature, within the scope of, and consistent with the actions and impacts previously considered for current sector operations, the Regional Administrator may approve an administrative amendment in writing. The Regional Administrator may approve substantive changes to an approved operations plan in a manner consistent with the Administrative Procedure Act and other applicable law. All approved operations plan amendments will be published on the regional office website and will be provided to the Council.

(d) *Approved sector allocation proposals*. Eligible NE multispecies vessels, as specified in paragraph (a)(3) of this section, may participate in the sectors identified in paragraphs (d)(1) through (25) of this section, provided the operations plan is approved by the Regional Administrator in accordance with paragraph (c) of this section and each participating vessel and vessel operator and/or vessel owner complies with the requirements of the operations plan, the requirements and conditions specified in the letter of authorization

issued pursuant to paragraph (c) of this section, and all other requirements specified in this section. All operational aspects of these sectors shall be specified pursuant to the operations plan and sector contract, as required by this section.

- (1) GB Cod Hook Sector.
- (2) GB Cod Fixed Gear Sector.
- (3) Sustainable Harvest Sector.
- (4) Sustainable Harvest Sector II.
- (5) Sustainable Harvest Sector III.
- (6) Port Clyde Community Groundfish Sector.
- (7) Northeast Fishery Sector I.
- (8) Northeast Fishery Sector II.
- (9) Northeast Fishery Sector III.
- (10) Northeast Fishery Sector IV.
- (11) Northeast Fishery Sector V.
- (12) Northeast Fishery Sector VI.
- (13) Northeast Fishery Sector VII.
- (14) Northeast Fishery Sector VIII.
- (15) Northeast Fishery Sector IX.
- (16) Northeast Fishery Sector X.
- (17) Northeast Fishery Sector XI.
- (18) Northeast Fishery Sector XII.
- (19) Northeast Fishery Sector XIII.
- (20) Tristate Sector.

(21) Northeast Coastal Communities Sector.

(22) State of Maine Permit Banking Sector.

(23) State of Rhode Island Permit Bank Sector.

(24) State of New Hampshire Permit Bank Sector.

(25) State of Massachusetts Permit Bank Sector

\* \* \* \* \*

(e) \* \* \*

(3)

(iv) *Reallocation of GB haddock or GB cod ACE.* Subject to the terms and conditions of the state-operated permit bank's MOAs with NMFS, a state-operated permit bank may re-allocate all, or a portion, of its GB haddock or GB cod ACE specified for the Eastern U.S./Canada Area to the Western U.S./Canada Area provided it complies with the requirements in paragraph (b)(1)(i)(B)(2) of this section.

\* \* \* \* \*

§ 648.89 [Amended]

4. In § 648.89, remove and reserve paragraph (f)(3)(ii).

[FR Doc. 2016-06186 Filed: 3/18/2016 8:45 am; Publication Date: 3/21/2016]